RNI No. MAHBIL /2009/31744
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महाराष्ट्र शासन राजपत्र

भाग एक–ल

वर्ष २, अंक ३७] गुरुवार ते बुधवार, सप्टेंबर १५-२१, २०१६/भाद्र २४-३०, शके १९३८ [पृष्ठे ३९, किंमत : रुपये २३.००

प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील (भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त) अधिसूचना, आदेश व निवाडे.

मुंबई औद्योगिक संबंध अधिनियम, १९४६, खालील सहायक संघ निबंधक, पुणे विभाग पुणे

शुद्धिपत्र

कापड उद्योगातील उपक्रम

क्र. पी. एन. ३६/२०११.—मुंबई औद्योगिक संबंध अधिनियम, १९४६ अंतर्गत कलम ११(१) अन्वये, मला प्रदान करण्यात आलेल्या शक्तींचा वापर करून व कामगार आयुक्त, मुंबई यांनी निर्गमित केलेली अधिसूचना क्रमांक काआ/मुंऔसं/अधि./२०००/कार्यासन ८, दिनांक १३ जून २००० अनुसार मी याद्वारे में. ओसवाल एफ. एम्. हॅमरले टेक्स्टाईल लि., इचलकरंजी या आस्थापनेस आज दिनांक ११ फेब्रुवारी २०११ रोजी, मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या प्रयोजनासाठी उक्त कलम ११(१) अन्वये कापड उद्योगातील " उपक्रम " म्हणून मान्यता देत आहे.

अ. आ. भिसे,

सहायक निबंधक,
मुंबई औद्योगिक संबंध
अधिनियम, १९४६, पुणे.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. व्ही. व्ही. कठारे, न्यायाधीश, ५ वे कामगार न्यायालय, मुंबई यांचा दिनांक ७ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २८५.—श्री. व्ही. व्ही. कठारे, न्यायाधीश, ५ वे कामगार न्यायालय, मुंबई यांना त्यांच्या दिनांक ७ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक ८ फेब्रुवारी २०११ ते दिनांक ११ फेब्रुवारी २०११ पर्यंत एकूण ४ दिवसांची अर्जित रजा, रजेच्या पुढे दिनांक १२ फेब्रुवारी २०११ व १३ फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मंजूर करण्यात आली आहे.

श्री. व्ही. व्ही. कठारे, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, ५ वे कामगार न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. व्ही. व्ही. कठारे, न्यायाधीश, ५ वे कामगार न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

अ. प्र. ढोले,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक १७ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.— श्री. पी. एम. मोरे, न्यायाधीश, १ ले कामगार न्यायालय, ठाणे यांचा दिनांक १ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३४४.—श्री. पी. एम. मोरे, न्यायाधीश, १ ले कामगार न्यायालय, ठाणे यांना त्यांच्या दिनांक १ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २५ जानेवारी २०११ ते ३१ जानेवारी २०११ पर्यंत ७ दिवसांची परिवर्तित रजा मंजूर करण्यात आली आहे.

श्री. पी. एम. मोरे, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, १ ले कामगार न्यायालय, ठाणे या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. पी. एम. मोरे, न्यायाधीश, १ ले कामगार न्यायालय, ठाणे या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक १ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. ए. टी. आमलेकर, सदस्य, औद्योगिक न्यायालय, औरंगाबाद यांचा दिनांक ७ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३४५.—श्री. ए. टी आमलेकर, सदस्य, औद्योगिक न्यायालय, औरंगाबाद, यांना त्यांच्या दिनांक ७ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १४ फेब्रुवारी २०११ ते १८ फेब्रुवारी २०११ पर्यंत एकूण ५ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक १२ फेब्रुवारी २०११ व १३ फेब्रुवारी २०११ आणि रजेच्या पुढे दिनांक १९ फेब्रुवारी २०११ व २० फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. ए. टी. आमलेकर, हे रजेवर गेले नसते तर त्यांची सदस्य, औद्योगिक न्यायालय, औरंगाबाद, या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. ए. टी आमलेकर, हे सदस्य, औद्योगिक न्यायालय, औरंगाबाद या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक १ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.— श्री. आर. एम. मुळे, सदस्य, औद्योगिक न्यायालय, मुंबई यांचा दिनांक १७ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३४६.—श्री. आर. एम. मुळे, सदस्य, औद्योगिक न्यायालय, मुंबई यांना त्यांच्या दिनांक १७ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २१ फेब्रुवारी २०११ ते २५ फेब्रुवारी २०११ पर्यंत ५ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक १९ फेब्रुवारी २०११ व २० फेब्रुवारी २०११ आणि रजेच्या पुढे दिनांक २६ फेब्रुवारी २०११ व २७ फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात येत आहे.

श्री. आर. एम. मुळे, हे रजेवर गेले नसते तर त्यांची सदस्य, औद्योगिक न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. आर. एम. मुळे, हे सदस्य, औद्योगिक न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक १ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. ए. एस. जगदाळे, कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, कोल्हापूर यांचा दिनांक ४ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३४८.—श्री. ए. एस. जगदाळे, कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, कोल्हापूर, यांना त्यांच्या दिनांक ४ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २८ जानेवारी २०११ ते ३ फेब्रुवारी २०११ पर्यंत एकूण ७ दिवसांची अर्जित रजा मंजूर करण्यात आली आहे.

श्री. ए. एस. जगदाळे, हे रजेवर गेले नसते तर त्यांची कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, कोल्हापूर, या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. ए. एस जगदाळे, हे कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, कोल्हापूर या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक १ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.— श्री. जी. बी. पाटील, न्यायाधीश, २ रे कामगार न्यायालय, कोल्हापूर यांचा दिनांक २१ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३६५.—श्री. जी. बी. पाटील, न्यायाधीश, २ रे कमागार न्यायालय, कोल्हापूर यांना त्यांच्या दिनांक २१ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक ९ फेब्रुवारी २०११ ते १८ फेब्रुवारी २०११ पर्यंत एकूण १० दिवसांची अर्जित रजा, रजेच्या पुढे दिनांक १९ फेब्रुवारी २०११ व २० फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. जी. बी. पाटील, हे रजेवर गेले नसते तर त्यांची त्यांची न्यायाधीश, २ रे कामगार न्यायालय, कोल्हापूर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. जी. बी. पाटील, न्यायाधीश, २ रे कामदाक न्यायालय, कोल्हापूर या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ५ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्रीमती पी. पी. नन्नवरे, सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई यांचा दिनांक ७ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३६७.—श्रीमती पी. पी. नन्नवरे, सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई, यांना त्यांच्या दिनांक ७ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २ फेब्रुवारी २०११ ते ४ फेब्रुवारी २०११ पर्यंत एकूण ३ दिवसांची परिवर्तित रजा मंजूर करण्यात आली आहे.

श्रीमती पी. पी. नन्नवरे, ह्या रजेवर गेल्या नसत्या तर त्यांची सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई, या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्रीमती पी. पी. नन्नवरे, ह्या सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ५ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.— श्रीमती एस. व्ही. सुवर्णा, सदस्य, औद्योगिक न्यायालय, ठाणे यांचा दिनांक ३१ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३६८.—श्रीमती एस. व्ही. सुवर्णा, सदस्य, औद्योगिक न्यायालय, ठाणे यांना त्यांच्या दिनांक ३१ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २४ जानेवारी २०११ ते २९ जानेवारी २०११ पर्यंत एकूण ६ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक २२ जानेवारी २०११ व २३ जानेवारी २०११ आणि रजेच्या पुढे दिनांक ३० जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्रीमती एस. व्ही. सुवर्णा, ह्या रजेवर गेल्या नसत्या तर त्यांची सदस्य, औद्योगिक न्यायालय, ठाणे या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्रीमती एस. व्ही. सुवर्णा, ह्या सदस्य, औद्योगिक न्यायालय, ठाणे या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ५ मार्च २०११.

IN THE INDUSTRIAL COURT, MAHARASHTRA AT MUMBAI

BEFORE SHRI S. K. SHALGAONKAR, MEMBER,

COMPLAINT (ULP) No. 961 of 2000.— (1) Sandeep Keluskar, (2) Sunil Singh Tikekar, (3) S. Pandiyan, (4) K. M. Sasar, (5) Sanjay S. Mane (6) Mahesh P. Tambe, (7) Sunil M. Hande, (8) Narayan Nikumbh, (9) Sandeep R. Gaikwad, (10) Ravindra Agane, (11) Ramesh P. Aware, (12) Shankar Kamble, (13) Kishor U. Torane, (14) Charandas S. Kamble, (15) Deepak R. Pagare, (16) Chandrashekar Satam, (17) M. B. Chandankar, (18) Sunil Kale, (19) R. K. Bhadange, (20) Thomas Lemons, (21) Suresh Mhade, (22) H. M. Shinde, (23) Baburao Patole, (24) R. V. Gaikwad, (25) S. B. Pawar, (26) Hariomlal Shrivastave, (27) R. C. Patankar, (28) R. Asawle, (29) R. K. Pawar, (30) R. S. Waghamare, (31) B. K. Pagare, (32) S. D. Shisupal, (33) P. D. Sonawane, (34) R. S. Gangurde, (35) Manoj S. Mane, (36) Jagdish Shedge, (37) R. B. Bhavr, (38) M. Ansari, (39) V. D. Waghmare, (40) Murugan Micheal, All C/o. Shri Jagdish Shedge, Malekar Wadi, P. L. Lokande Road, Chembur (W.), Mumbai 400 089.....*Complainants*.—*Versus* (1) M/s. Hotel Corporation of India Limited Cheifair Flight Catring, Sahar Airport, Mumbai 400 099, (2) The General Manager, Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099, (3) Shri J. D. Bansode, M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099 ..... *Respondents.*

COMPLAINT (ULP) No. 1098 OF 2000.—(1) Melroy Martin D'mello, 3 Sagar Tarang, Bandra Reclamation, Bandra (W.), Mumbai 400 050, (2) Minino John Coellho, Nikam Wadi, Room No. 16, Bhawani Shankar Road, Dadar, Mumbai 400 028,.....*Complainants*.—*Versus* (1) M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099, (2) Shri J. D. Bansode, Presonnel Managar, M/s. Hotel Corporation of India Limited, Cheifair Fight Catering, Sahar Airport, Mumbai 400 099.....*Respondents*.

COMPLAINT (ULP) No. 1177 OF 2000.—(1) Bajighayan Singh, Naya Nagar, Chawl No. 21, Room No. 3, B. G. Kher Marg, Worli Naka, Mumbai 400 018, (2) Shri Rajendra Kashinath Salunke, Ambe Wadi, A. P. D'souza Chawl, Vile Parle (E.), Mumbai 400 099.....*Complainants*.—*Versus*.—(1) M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099, (2) Shri J. D. Bansode, Personnel Manager, M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099.....*Respondents.*

COMPLAINT (ULP) No. 1319 OF 2000.—Shidram Bhimrao Bhosale, Mukti Nivas Compound, V. P. Road, Andheri (W.), Mumbai 400 058.....*Complainant*.—*Versus*.—(1) M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099. (2) Shri J. D. Bansode, Personnel Manager, M/s. Hotel Corporation of India Limited, Chelfair Flight Catering, Sahar Airport, Mumbai 400 099.....*Respondents*.

COMPLAINT (ULP) No. 345 OF 2001.—Smt. Darshana B. Ridloh, Walmeke Basti, Ramabai Wadi, Vakola, Masjid Road, Santacruz (E.), Mumbai 400 055.....*Complainant*.—*Versus* (1) M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099, (2) Shri J. D. Bansode, Personnel Manager, M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099.....*Respondents*.

COMPLAINT (ULP) No. 454 OF 2001.—(1) Ms. Shalini Thikekar, (2) Ajay Bhalekar, (3) Santosh Jadhav, (4) Ganesh Padwal, C/o. Madhukar Gawade, Building No. 22, C-Wing, Vandemataram Co-op. Hsg. Soc., MHDA, Chandivali, Ghatkopar, Mumbai 400 072, ...*Complainant*.—*Versus* (1) M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099, (2) Shri B. H. Kale, Personnel Manager, M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099.....*Respondents*.

COMPLAINT (ULP) No. 843 OF 2002.—Shri Kumar Hari Mohan Dey, 355/1, Jairaj Pandey Chawl, Kurla (W.), Mumbai.....*Complainant*.—*Versus* (1) Hotel Corporation of India, Cheifair Fight Catering, Sahar Airport, Mumbai 400 099, (2) Shri A. K. Kapoor, Assistant General Manager, M/s. Hotel Corporation of India Limited, Cheifair Flight Catering, Sahar Airport, Mumbai 400 099.....*Respondents*.

In the matter of complaint of unfair labour practice under Section 28 read with Items 5, 6 and 9 of Schedule IV of the MRTU and PULP Act, 1971.

CORAM.— Shri S. K. Shalgaonkar, Member.

Appearances.— Shri J. R. Pawar, Advocate for the complainants.

Shri K. T. Rai, Advocate for the respondents.

Common Judgement

(Dictated and declared in open Court on 5th and 6th January 2011)

1. This is a Group of Complaint (ULP) matters, though separately and individually filed by the complainants so named therein below Exh. U-1, as against the common-respondents so named therin, under Section 28 for unfair labour practice under Items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 (hereinafter referred to as the Act, 1971). The basic complaint is of the Complaint (ULP) No. 961/2000 got filled by in all 40 complainants so named therein with this Court on 25th September 2000 ; alongwith others. As most of the facts and circumstances, berring designation in two matters are slightly different ; but identical in nature in all these matters forming a group of in all 7 Complaint (ULP) matters, as against the common respondents. As well as the oral evidence has been adduced/ adopted by these complainants in common and on behalf of the respondents there has been single solitary-witness got recorded and adopted in cross by all these complainants in common. Accordingly for maintaining brevity of the findings and avoiding its overnapping of the same ; these matters have been disposed of through common judgment on merits finally ;

2. According to these complaints ; they have filed these complaints in the capacity as an employee of the Respondent No. 1 Hotel.

3. According to these complaints further the Respondent No. 1 is wholly owned subsidiary of Air India (a statutory Corporation constituted under the provision of Air Corporation Act, 1953) and its entire share capital so held by Air India and its nominees. It is conducted its business with the help of Board of Directors appointed by Air India, in constitution with the Government of India as per Article 33 (A) of the Articles of Association of the Respondent No. 1. The Respondent No. 1 Hotel is a State within the meaning of the Article 12 of the Constitution of India. The Respondent No. 2 is the General Manager of Respondent No. 1 Coporation.

4. These complainants have further stated therein that, Cheifair Flight Catering, Sahar, Bombay 400 099, is one of the establishments of Respondent No. 1 Corporation having employed around 750 employees with it. This Cheifair Flight Catering caters to Air India, Indian Airlines and Air Mauritius with its function to provide food and beverages to the aircrafts of these airlines.

5. Annexure 'A' to these complaints does gives particulars in respect of their date of joining with the respondent employment. Accordingly, the Complainant Nos. 1 to 39 and others used to get artificial break initially ; but later on it was stopped in the month of August 1995. Thereafter, since September 1995, the complainant Nos. 1 to 17 have been regularly and continuously working with it without any break. Same is the case in respect of Sr. No. 18 onward till 40 they have been working continuously without any break after August 1995 to July 1999. Accordingly, the complainant Nos. 18 to 40 used to work continuously and regularly in the employment with the Respondent No. 1 and they have completed 240 days of continuous service with it.

6. Thus, the complainant Nos. 1 to 40 have been working with the respondent corporation as on the date and the main activities of these complainants are in the nature of cleaning, sweeping, washing etc. With regard to complainant Nos. 1 to 17 they were required to work in 4 shifts as mentioned therein.

7. According to these complainants ; the work of house keeping is not of a seasonal nor intermittent nature of work ; but it is continuous and perennial in nature so available continuously and regularly with the respondent corporation. But the respondent corporation deliberately and intentionally not making them permanent even though they are legally and legitimately entitled to do so. Similarly, the complainant Nos. 1 to 17 have not been getting any benefits and facilities even though the nature or work is of similar to that of permanent workmen. That was done in order to deprive these complainant Nos. 1 to 17 from, their rights, privilleges and facilities as to that of permanent workmen and thereby the respondents have indulged into an unfair labour practice under Items 5 of Schedule IV of the Act, 1971. Even as per the Model Standing Orders, they are entitled to get permanency though sooner they have completed 240 days of continuous service in the employment with the respondents. But by not confirming the same ; the respondents have indulged into an unfair labour practice under Item 6 of Schedule IV of the Act, 1971.

8. It is the case of these complainants further that, the complainants at Sr. Nos. 18 to 40 have been continuously working in its Operation Department with the corporation and were engaged in loading and unloading the matarial, washing trolley, washing silver vessels etc. After the month of September 1995 ; the corporation had stopped the said practice by giving artificial break, but they have started recalling the workmen with it. Accordingly, the complainant Nos. 18 to 39 have been working with it without any break. The nature of work of these complainant Nos. 828 to 20 is of continuous, regular and permanent in nature and it was available with the corporation, as they have not been made permanent. Hence, it is an illegal action on part of these respondents amounting to an unfair labour practice under Item 9 of Schedule IV of the Act, 1971. Thus, it is the case of these complainants that, all these are nothing but an unfair labour practice on part of these respondents as agaist these complainants under Items 3, 5 and 9 of Schedule IV of the Act, 1971.

9. According to these complainants ; they have filed an affidavit in the complaint (ULP) No. 890/1994 stating that, they were doing similar nature of work ; wherein the said complaint was filed through Maharashtra Kamgar Congress in which 123 workmen were involed. Interim-relief order was passed in that matter in favour of these complainants and they have been continuously working in the employment with the respondents as per the said order dated 22nd December 1999 (Annexure 'B'). Meanwhile, a settlement has reached between the parties in the Complaint (ULP) No. 890/1994 on 12th May 1995 before the Hon'ble Industrial Court, Mumbai. Accordingly, the respondent corporation have made 65 workmen as permanent workmen phrase-wise (Annexure 'C' is the copy of the said settlement). It is the case of these complainants that, the Complainant Nos. 1 to 40 were also party to the said case ; but they were shown at Sr. No. 66 onward, therefore, their case for permanency were not considered by the corporation in the matter. But as promised by the respondents ; their case would be considered as nothing has been done from the side of the respondents. Hence, these complaints.

10. A some sort of discrimination has been made amongst these group of complainants as the Compainant Nos. 18 to 40 by making payment of Rs. 140 to Sarvashri R. K. Badange, H. M. Shinde, B. K. Pagare and V. D. Waghmare as per the whims and desire of the management.

11. According to these complainants ; there were also vacant post of 40 in the respondent-corporation, particularly, the said department ; which took place on account of resignation, death and promotion of the permanent workmen in the said department. In spite of the same ; they have not been made permanent and thereby the respondents have indulged into an unfair labour practice under Items 6 and 9 of Schedule IV of the Act, 1971.

12. According to these complainants ; the respondents have started the threatening them if they continue to consist upon their permanency it may take drastic action of terminating the services of the complainants at any moment. That took place on 6th September till 14th September 2000. In writing they forwarded their protest to the respondents (Annexure 'D' is the letter dated 18th September 2000).

13. By way of amendment to the complaint ; is it added *vide* Para 3 (*a*) stating therein that the respondent has employed more than 750 workmen during the relevant period as the respondent No. 1 Corporation has taken a plea in its 'written-statement' stating that, the said corporation comes under the purview of the Central Government and it does not come under the state Govenment, and therefore, the provisions of the Act, 1971 are not applicable or binding on the corporation. But it has not filed any document to support its contention. It is, however, taken a stand in case of Mr. M. D. Khandagale, Sweeper, Staff No. 80525 in respect of illegal termination of services before the Assistant Labour Commissioner (Central) that, the appropriate Government relating to the undertaking *i.e*. Hotel Corporation of India Ltd. Unit : Chefair Flight Catering is a State Government within the meaning of definition of appropriate Government as per Section 2 (*a*) of the Industrial Disputes Act, 1947 (hereinafter referred to as the ID Act, 1947).

14. On the contrary ; it is equally germane to note that an application for recognition preferred by the union of the employees Chefair Employees Guild, a registered Trade union under Section 11 of the Act, 1971 has been pending for consideration before the Industrial Court, Mumbai as well as reference under Section 10 of the ID Act, 1947 in respect of upward revision of general conditions of service has been also pending before the Industrial Court, Mumbai as per the Reference (IT) by the Government of Maharashtra. Therefore, the appropriate Government in respect of Hotel Corporation of India is a State Governmet and not a Central Government.

15. It is the case of these complainants further that, a Complaint (ULP) No. 931/1999 Sot filed by the Chefair Emplaoyees Guild Union under the Act, 1971 ; whereby interim-relief order passed on 9th September 1999 therein. The said union has also filed Complaint (ULP) No. 602/1996 before the Industrial Court, Mumbai under the said Act, 1971 ; which was allowed by order the order passed below Exh. C-10 on 7th April 1997 wherein the affidavit filed by the corporatiion in the Application (MRTU) No. 22/2003. Similarly, the Government of Maharashtra also referred to Charter of Demands *vide* its order dated 6th September 1999 for adjudication before this Court as per Section 10 (*1*) read with Section 12 (*5*) of the ID Act, 1947. In addition to ; the respondent-corporation has also made 65 workers as its permanent workmen by way of settlement in the Complaint (ULP) No. 890/1994 ; which was filed by Maharashtra Kamgar Congress. All these documents go to show that, the stand taken that the appropriate Government is Central Government and not the State Government is false. But it is the State Government which is the appropriate Govenment in these matters.

16. Therefore, it is lastly prayed by these complainants in these group of Complaint (ULP) matters that, by allowing the complaint in their favour the declaration be made to that effect as per the provisions of the Act, 1971. Similarly, the respondents be directed to make these respondents at Sr. Nos. 1 to 40 as permanent workmen in its employment and to pay them all benifits, facilities, privileges on part to that of permanent workmen in its employment after completion of 240 days of continuous service by each of these complainants. They be further directed to pay arrears arising out of the case of their permanency in favour of these Complainant Nos. 1 to 40.

17. It seems from the record that, there is an application for *interim-relief* filed by these complainants under Section 30 (*2*) of the Act, 1971.

18. In these group of Complaint (ULP) matters 7 in number, the common-respondent have filed its 'written-statement' on its behalf on 24th September 2001 with identical and similar type of contentions, they have pleaded. Hence, could be taken down in short as common in these group of Complaint (ULP) matters as under :—

That the contentions, averments alongwith the allegation so levelled by these complainants as against it are denied to be true ; as the Respondent No. 1 Chefair Flight Catering has been exclusively and sole providing food and beverages to the air transport industry to be served on their aircrafts. Hence, the appropriate Government in respect of the Rspondent No. 1 would be the Central Government as per Section 2 (*a*) of the ID Act, 1947. Hence, as such these complaints filed under the provisions of the Act, 1971 is not maintainable.

19. The industry of the Respondent No. 1 (as admitted by these complainants themselves in Para 3 (*a*) of their complaints) is carried by/and or under the authority of the Central Government and the Central Government has a deep and pervasive control of the Respondent No. 1 Company. Therefore, the appropriate Government in respect of the Respondent No. 1 is the Central Government and as such, these complaints are without jurisdiction. Hence, not maintainable.

20. These present complaints are also barred by principles of '*res judicata*' ; in as much as a similar complaint filed by the complainants alongwith others got disposed off, by way of settelment by the Industrial Court, Maharashtra, Mumbai, in Complaint (ULP) No. 890/1994 ; wherein the settelment was signed between the parties to the said complaint. And wherein it was agreed to give permanency as per the order of their seniority as and when regular vacancies arise and subject to other conditions as stated in the said settlement. Therefore, these complainants cannot agitate the same cause of action in the present complaint. In addition to the Central Government has imposed a ban on creating and filling up vacancies in public sector-undertakings ; including Hotel Corporation of India. Hence, no relief so prayed by these complainants could be granted.

21. It is denied that, these complainants were and are the employees as per the provisions of the Act, 1971. But in fact, these complainants are casual employees engaged on need basis without any right of employment. These complainants did not disclose any real cause of action as on 6th September 2000 as alleged by them.

22. In fact, it is the case of the respondents that ; Cheifair Flight Catering is one of the units of Rspondent No. 1 Corporation, which employed around 485 workmen with it. They have engaged these complainants in work purely as casuals and on need basis, depending on the exigencies of work *i.e.* number of flights they have to be catered which varies from day to day and from season to season. In fact, these Complainants Nos. 18 to 39 never offered themselves for work and as such the question of engaging them for the said period did not arise. As and when the said complainants offered themselves for work and, whenever work was available they were engaged as casuals.

23. It is the case of these respondents that, in absence of sanctioned posts and vacancies and also in view of the ban imposed by the Central Government on creating and filling up of posts the question of respondent company deliberately and intentionally not making them permanent as alleged did not arise as these complainants are not permanent employees of the corporation, the provisions of Model Standing Orders do not apply to them as the appropriate Government for it is the Central Government and not the State Govenment. Therefore, it is denied that, the respondents have indulged into an unfair labour practice as per Items 5 and 6 of Schedule IV of the Act, 1971. And it is lastly denied that, the respondents have indulged into an unfair labour practice as per Items 3, 6 and 9 of Schedule IV of the Act, 1971.

24. However, the respondent do not deny the contents of the said settlement, but they do not admit the receipt of notice dated 25th August 2001 not the contents thereof. But according to these respondents ; the very subject matter of absorption and permanency having been deciding in Complaint (ULP) No. 890/1994 ; the very complaint is barred by principles of res judicata. Therefore, it is lastly prayed that, these complaints so filed by the complainants be dismissed with costs.

25. Below Exh. C-8 the list of documents ; the respondents have produced on record a xerox-copy of the directive from the Managing Director- HC dated 21st May 1997 as well as consent-terms dated 12th May 1995 between the Maharashtra Kamgar Congress and Hotel Corporation of India filed before the Industrial Court, Mumbai in Complaint (ULP) No. 890/1994 through its xerox-copy respectively.

26. Below Exh. U-52 in the Complaint (ULP) No. 961/2000 these complainants have produced on record xerox-copies of in all 12 documents running into 1 to 127 Pages with this list on 16th August 2004 and by way of an affidavit by way of rejoinder below Exh. U-7 in these matters ; respectively. Below Exh. C-20 the respondents with this list on 6th May 2000 have filed xerox-copies of the documents 3 in number from Page Nos. 1 to 41 ; respectively. Thereafter with the list below Exh. U-90 ; the complainants have produced on record xerox-copies of the documents 9 in number on 5th January 2010. Again with the list below Exh. U-95 the complainants have produced on record xerox-copies of 8 documents respectively. Similarly at the last moment, below Exh. C-23 the list ; the respondents have produced on record xerox-copies of 2 documents from running Page Nos. 1 to 11 and 12 to 14 on 23rd December 2010 respectively.

27. A similar type of Issues got framed to that of so framed below Exh. O-2 on 14th July 2007 and additional issues got framed on 4th January 2006 respectively ; in the original Complaint (ULP) No. 843/2002 and in other matters and they have been treated as 'common'. Similarly, all these issues have been answered by this Court through its findings, of course, supported with the reasons thereof as under :—

	COMMON ISSUES	*COMMON FINDINGS*
1.	Whether the complainant has proved that the respondents have committed unfair labour practices under Items 3, 5 and 9 of Schedule IV of the MRTU and PULP Act, 1971 ?	No
2.	Whether the complainant is entitled to the reliefs sought for ?	No
3.	What order ?	As per final order so passed today in the 1st session.

	ADDITIONAL ISSUES	*FINDINGS*
1.	Which is the appropriate Government in regard to Respondent No. 1 Corporation ?	Central Government
2.	Whether the complaint is maintainable ?	No.

Reasons

28. Heard the Learned Advocate Shri J. R. Pawar for these complainants in these group of Complaint (ULP) matter 7 in number, on 12th November 2010, 2nd December 2010, 4th December 2010, 10th December 2010 respectively. So also on the other hand ; the Learned Advocate Shri K. T. Rai for the common-respondents in these group of Complaint (ULP) matters 7 in number has also advanced his oral submissions, across the bar, on 8th December 2010 and 23rd December 2010 respectively at length. Similarly by way of reply, the Learned Advocate Shri. Pawar for these complainants on law-point has concluded his oral submissions on 23rd December 2010 ; respectively.

29. Today in the morning session ; the Learned Advocate for these complainants Shri J. R. Pawar has placed on record, the 'written synopsis of his argument' below Exh. U-109 itself ; respectively.

Court Time Over.

30. On the basis of the joint-pursis given on behalf of the complainants below Exh. U-44 in the Complaint (ULP) No. 345/2001 and 454/2001 today in the second-session at 3-30 p.m. These matters are required to be deferred through its common-judgment till tomorrow *i.e.* on 6th January 2011.

Resumed on 6th January 2011 in the first session.

31. Additional Issues (Preliminary Issues) :—

In respect of these Issues so already framed by the Learned Predecessor of this Court it is the oral submission of the Learned advocate for the respondents that, present Respondent No. 1 is the catering establishment. The Respondent No. 2 by name : Cheifair Flight Catering, Sahar Airport, is the subsidiary of Hotel Corporation of India and the Hotel Corporation of India is the subsidiary of Air India Limited, the main organ of the Government of India, in 'Air Transport Services'. As per the latest G. R. issued by the Government of India; through its respective Ministry dated 19th August 2010; the respondents do come under the 'Central list' ; for which the appropriate Government as per Section 2 (*a*) of the ID Act, 1947 : would be the Government of India *i.e.* 'Central Government' and not the 'State Government'. Therefore, these complaints so filed by different complainants, as against these common respondents are not maintainable as per the provisions of the Act, 1971. To that effect ; with the list below Exh. C-22 the lettter dated 23rd December 2005 issued by the trade-union by name : Bharatiya Karmachari Kamgar Mahasangh (BKKM) addressed to the respondents; alongwith the xerox-copy of the said G. R. dated 19th August 2010 and amendment to that effect, to the Industrial Disputes Act, 1947 *vide* Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) dated 18th August 2010 got established as per the law made by the Parliament. Hence, for the Central Public Undertaking/its subsidiary company set up by the Principal Undertaking, for which 'Central Government' is the appropriate Government; he has relied upon.

32. On the other hand ; it is the oral submission of the Learned Advocate for these complainants in all these matters that, if the Court takes a look of the earlier order so passed by the Hon'ble Industrial Court in Complaint (ULP) No. 961/2000 ; whereby the said complaint was dismissed for want of prosecution dated 3rd November 2006. However, by way of Review Application (ULP) No. 15/2000 *vide* order dated 6th November 2008 ; all these matters got restored thereby holding that, this Court has jurisdiction as the 'State Government' is the 'Appropriate Government' as per the provisions of the ID Act, 1947 and the very G. R. so relied upon on behalf of the respondents dated 3rd July 1998 has been prospectively effected too. Hence, it cannot override with the pending matters. To that effect ; earlier G. R. dated 3rd July 1998 issued by the Government of India so was material at that time. And to that effect with the list below Exh. U-90 these complainants have produced on record the relevant documents.

33. By referring to the Exh. C-22 by the Learned advocate for these complainants it is his oral submission that, it is required to be complied with prospectively *i.e.* w.e.f. 15th September 2010 and at any cost and in any circumstances this amendment would not retrospectively affect adversely to the present matters *i.e.* pending Complaint (ULP) matters at all. In support of his oral submissions, he has relied to the relevant provisions of the 'General Clauses Act, 1897', particular, Section 5 (*1*) and the comments below it on Page No. 13. Therefore to that effect, with the compilation below Exh. U-108. They are as under :—

> 5. *Coming into operation of enactments* – (*1*) Where any Central Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent,–
>
> (*a*) in the case a Central Act made before the commencement of the Constitution, of the Governor-General and
>
> (*b*) in the case of an Act of Parliament, of the President.
>
> (*3*) Unless the contrary is expressed a (Central Act) or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Comments

Whether it is mandatory to lay the rules before the Legislature – It is settled law that it is not incumbent that rules should be made before exercise of statutory power. It is further settled law that it is not mandatory to lay the rules made before the Legislature to be operative. So the absence of such a provision in the Act does not whittle down the effect of the rule if it is otherwise valid.

Retrospective effect when could be given—All laws which affect substantive rights generally operate prospectively and there is a presumption against their retrospectivity if they affect vested rights and obligations unless the Legislative intent is clear and compulsive. Such retrospective effect may be given where there are express words giving retrospective effect or where the language used necessarily implies that such retrospective operation is intended. Hence the question whether a statutory provision has retrospective effect or not depends primarily on the language in which it is couched. If the language is clear and unambiguous effect will have to be given to the provision in question in accordance with its tenor. If the language is not clear then the Court has to decide whether in the light of the surrounding circumstances retrospective effect should be given to it or not ".

34. The Court has gone through the documents with list below Ext. U-90 in the main complaint *i.e.* Complaint (ULP) No. 961/2000. However, it is not disputed by other side in respect of that, whatever the orders that have already been passed by the Learned Predecessor, as well as other Industrial Court Mumbai, to that effect in the Complaint (ULP) No. 961/2000 so also the documents in respect thereof, there was a trade union recognition application so sought by one of the trade-unions working with the respondent establishment is also not disputed, since it was sought under the provisions of the Act, 1971 only. But at this juncture, it is incumbent upon this Court to appreciate the latest development so taken place as per the G. R. dated 15th September 2010, which is relevant for deciding these two issues, which are also primary in nature.

35. In the written-statement, as well as in the main-complaint itself, these complainants have pleaded in respect of that, the Government of India, *vide* its Act so passed in the Parliament-these respondents have come into existence and with the help of ' Board of Directors ', of which some of the Directors have been nominated/appointed by the Government of India ; through its respective Ministry with the respondents Board of Directors. And to that affect preliminary-issues touching to the very jurisdiction of this Court was agitated. And for that purpose, the Learned Predecessor of this Court has added these additional issues with the underline statement that, these additional issues be treated as ' preliminary-issues' *vide* order to that effect below Exh. O-2, dated 4th November 2006, as has already been done.

36. The Amendment Act *i.e.* particularly, the Industrial Disputes (Amendment) Act, 2010 got duly published in the Gazette of India dated 19th August 2010 and that is the Amendment Act No. 24/ 2010, dated 18th August 2010 has come into effect ; admittedly prospectively one, but there is no denying fact that, law-point could be agitated and made applicable to the pendig matters; also.

37. The General Clauses Act, 1897 in general and as far as the Section 5(*1*) (*a*) of the said Act, it cannot be disputed with regard to the retrospective effect of such Amendment Act, but the Court cannot overlook the same, nor it cannot reconsider the same in the changed scenario. The Industrial Disputes Act, 1947, admittedly is the Central Act, since a ' subject of labour ' comes under the purview of the Concurrent List of the Constitution of India, wherein both the ' State ' as well as ' Central Government ' simultaneously may pass respective Acts. However, as the ID Act, 1947 is the Central

Act and the Industrial Disputes (Amendment) Act, 2010 (No. 24/2010) is the latest-development therein; which is required to be considered by this Court, at this juncture. It is not disputed that, the respondents are subsidiaries of Air India Corporation; which is the offspring of the Act passed by the Parliament and the respondents are also subsidiary companies set up by the principal underakings owned/controlled by the Central-Government do apply into to the facts and circumstances as emerged in these Complaint (ULP) matters on hand before this Court.

38. Strictly speaking, the Industrial Disputes (Amendment) Act, 2010 *i.e*. No. 24/2010, dated 18th August 2010 got duly published; presupposes it got consent and assent of the President of India to that effect and it has come into operation accordingly; as specifically mentioned on the first Page headlines *"The Following Act of Parliament received the assent of the President on the 18th August 2010 and is hereby published for general information"*. And *vide* Section 2, it is mentioned that " it shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, apponint".

39. Here, the respondent-company or which not less than 51% of its paid-up share capital is held by the Central-Government, or it has been established or under any law made by the Parliament and hence it does apply to the facts and circumstances as far as these respondents in these Complaint (ULP) matters are concerned; specifically.

40. Therefore, after considering the legal position as narrated above, it would not be out of place to hold at this juncture that, the Complaint (ULP) matters 7 in number so filed as against the common respondents below Exh. U-1 under the provisions of the Act, 1971; are held to be not maintainable and this Court is having no jurisdiction to decide the same as per the provisions of the Act, 1971. Since the appropriate Government for these respondents in these matters would be the 'Central Government' as per Section 2(*a*) of the ID Act, 1947 ; which is the parent Act of the MRTU and PULP Act, 1971. Thus, these Additional Issue Nos. 1 and 2 are required to be answered accordingly in the terms as above.

41. *Issue No. 1*,—Admittedly, it is the common-issue in these group of 7 Complaint (ULP) matters, though filed by different-complainants as named below Exh. U-1, as against these common-respondents. But both on facts and in the eyes of law, the initial and heavy burden of proof lies on the shoulder of these complainants to prove the Issue No. 1 as against the respondents in these matters, of course, the cogent evidence before the Court.

42. To that effect, it is the oral submission of the Learned advocate for these complainants that, only 33 claimants have remained herein; for whom, these complainants have been agitating and seeking justice in the form of their regularization in service as against in all 49 vacancies in Grade IV.

43. Then, it is his oral submission further that, a single witness by name one Shri B. H. Kale below Exh. C-18 has been examined on behalf of the management of the respondents and that has been adopted in all these Complaints (ULP) matters. Admittedly, none of these complainants are neither members of any of the union *i.e.* both the unions, but they are filing these complaints in their individual capacity only. To that effect, as per Exh. U-7 affidavit in rejoinder got filed by these complainants.

44. With the list below Exh. C-20 on Page No. 3 *i.e.* xerox-copy of the Award passed in Reference (IT) No. 75/1999, dated 27th November 2002 ; so also in other documents *i.e.* the general documents the present demand in respect of regularization of their services/permanency cannot be dropped as per Para (h) of the said-document is concerned. To that effect ; Shir B. H. Kale below Exh. C-18 *vide* Para 2 has specifically admitted in his cross.

45. *Vide* Para 7 below Exh. U-9 it is as per since 12th May 1995 an order got passed as against on 12th September 2000, a demand was made for their regularization of service since all of them have continuously been working without any break as on today. He has drawn the attention of this Court to Exh. U-19 the list ; wherein xerox-copies of various order passed by the Court earlier have been brought on record. He has further submitted before the Court that, both these unions are not recognised trade union as per the provisions of the Act, 1971. Therefore, he submitted before the Court that, for last 15 years, all these complainants have been continuously working, therefore, it is his oral submission that, these non permanant 120 employees are none of the member of either union. Sarvashri Sunil Kale, R. K. Bhadange, V. D. Waghmare, R. C. Patanakar and Jagdish Shedge got expired, they be deleted accordingly it is his oral submissions across the bar he made. It is his further oral submission that, there was no full adjudication of the industrial dispute, has taken place in the said Reference (IT) matter at all. To that effect ; with the compilation below Exh. U-107 and U-108, he has referred to and relied upon the case-laws as mentioned therein.

46. In his 'written-submissions' also; the Court has gone through it below Exh. U-109, he has repeated the oral submissions he has made orally to that effect already.

47. It is his oral submission further that, initially there were 39 workmen, but as on today only 33 workmen, against whom an unfair labour practices got done by these respondents as per Items 5, 6 and 9 of Schedule IV of the Act; as they have been kept casual in order to avoid payment of wages and other allowances equivalent to which are being paid to the regular-employees. It is his further oral submissions that, these complainants have been working continuously with the respondents without any break. Admittedly there was an artificial break used to be given to these complainants upto the month of August, 1995; but later on, that practice of giving a break was stopped by these respondents. In respect of the complainants at Sr. Nos. 1 to 17 they have been continue without any break right from September, 1995 onward till the date as they have been working with the Hygiene Department with the respondents. Similarly, the complainants at Sr. Nos. 18 to 39 they were previously working during the period of August, 1995 to July, 1999 with its Operation-Department *i.e.* loading and unloading food and bevarage items so supplied through them. Therefore, their nature of work was continuous and perennial in nature; on par to that of their permanent employees concerned.

48. It is his oral submission that, these complainants right from Sr. Nos. 1 to 17 have been working in all 4 shifts *i.e.* 'house-keeping department' and their work has been supervised by the company/corporation's officers. At the material time there was no recognised trade union with the corporation. Hence, by way of these complaints, these workers are seeking regularization of their services individually. In addition to it, as per the provisions of the 'Model Standing Orders', they are entitled to get regularization in the employment with the respondents. Rendering services to the Air Passengers is the main nature of business of these respondents for which these complainants have been given and alloted with work as they were not getting minimum wages as per the Minimum Wages Act, 1948, but they were getting 'consolidated-wages' per month but other permanent workers were getting wages as per the said settlement. Hence, there was a discrimination so taken place.

49. Then, he took this Court through the various Court orders so passed in the earlier Complaint (ULP) No. 890/1994; when there were 123 employees. *Vide* order dated 22nd December 1994 as per the settlement dated 12th May 1995 there wages were revised. As per the letter dated 25th August 2000 (Annexure 'C') to the main complaint, there was a threat given by the employer. Out of 123 temporary employees, only 65 (first in number) have been made permanent by these respondents in its employment. These complainants were also litigants in the earlier Complaint

(ULP) No. 890/1994 and as a fresh cause of action has taken place in the month of August 2005; as 40 workmen have been promoted to the higher grade in its employment. Hence, these posts became vacant; in addition to other vacancies, also. Therefore, on the date of filing of these complaints, these complainants have been working with the respondent corporation and to that effect a regularization-scheme as per the settlement dated 12th May 1995 (Exh. U-52) the list particularly Page Nos. 98 to 120 do show that, the work was so available with the employer since the year 1995 onwards. Therefore, all these complainants have been claiming regularization of their wages as per the said-settlement.

50. In order to support the case of these complainants the Learned advocate for these complainants has drawn the attention of this Court, to the various-documents *i.e.* Identity Card, P. F. Slips, ESI Slips, Payment Envelopes, which they have filed it on record below Exh. U-52, Sr. Nos. 66 to 123 *i.e.* only 33 complainants have been claiming reliefs, as there has been a list of retired workmen. Hence, total vacancies were 47. As per Page No. 110, there was an Overtime-Form given and issued in favour of these complainants.

51. A 'duty roaster' *i.e.* list of newly recruted-persons (Page No. 116) as well as Sr. Nos. 126 to 127 the list of promoted workers has been put into service by these complainants. Then, he has referred to the proved documents with the list below Exh. U-95 *i.e.* at Sr. Nos. 2, 3, 4 and 5 showing that, 4 workers opted for VRS, other 4 workers have resigned and 4 workers have been dismissed and in all 15 workmen have been expired so far. Exh. U-98 Article 'A'- collectively do show salary of the present workers. Therefore, clearcut vacancies were 37-13 in all 50 in the Grade of IV as on today with the respondents.

52. No doubt it is oral submission further that, the union was for permanent employees only through the Award so passed in Reference (IT) No. 75/1999 cannot be considered at this juncture; as a *'res judicate'*. To that effect he has referred to the affidavit in rejoinder of the complainants below Exh. U-7 and made a further submission across the bar that, a 'temporary' is equivalent to permanent so far as the work is concerned except their salary packet is different one. In fact, according to his oral submission, a lot of work was available at the material time, when these complaints got filed by these complainants.

53. To that effect he has invited the attention of this Court to the list of documents below Exh. C-20 so filed on record by the respondents wherein the said statement was recorded as per Section 18 (*1*) read with Section 2 (*p*) of the ID Act, 1947, but later on, there has been neither settlement subsequent to it got recorded dated 24th October 2002. Therefore, there is no bar as per Section 59 of the Act, 1971 and it does not apply to these matters before the Court.

54. Then, it is his oral submission that, the employer has employed these workers for years together as per Section 4 of the Model Standing Orders a 'Badli' is required to be made 'permanent' in the employment with his employer and with his provision is binding in nature for these respondents in these matters. Therefore, lastly he has submitted that, these complainants, since they have completed 240 days of continuous service in each year, they be granted with relief of permanency.

55. By way of 'reply'; it is the oral submission of the Learned advocate for the complainants that, with regard to the settlement so arrived at between the concerned trade union and the management as far as Page Nos. 98 to 105 with the list below Exh. U-52, these complainants alongwith others were claiming permanency in the earlier complaint (ULP) No. 295/1993 particularly, as per Page No. 98 so also 95 therein, the management has agreed to make permanent these casual employees, of course, phase-wise but nothing has been done from the side of the respondents. In fact, the complainants at Sr. Nos. 1 to 17 have been working with Hygiene-

Department of the respondents no term as House Keeping Department in 4 shifts that has been sufficiently pleaded by these complainants below Exh. U-1 and they have been working till the date as per the *interim-relief* order so passed by the Learned Predecessor of this Court. They have been also performing a similar type of job as to that of permanent workmen, which is permanent and regular in nature.

56. In support of his oral submissions the Learned advocate for these complainants has referred to and relief upon the following case laws through the compilation below Exh. U-104 on 4th May 2010.—

1. It is the judgment of our Hon'ble Bombay High Court, in the matter between *Maharashtra State Co-op. Cotton Growers Marketing Federation Ltd. and Ors. V/s. Maharashtra State Co-op. Cotton Growers Marketing Federation Emp. Union and Ors., reported in 1992-I-CLR-350* wherein it has been held that.....

"As per the Patankar Award those employees who have worked 240 days, but not made permanent on the ground that, the employees were seasonal employees and they continued as a temporary for years together."

Therein it is further held that.....

"Petitioner Federation has lndulged into an unfair labour practices under Items 5, 6 and 9 of Schedule IV of the Act, 1971".

2. Then, there is a second judgment on the same law-point is of our Hon'ble Bombay High Court, in the matter between *State of Maharashtra, Forest Department and Anr. V/s. Sarva Shramik Sangh and Anr. reported in 2000-III-CLR-122.*

3. Again on the same law point there is a judgment of our Hon'ble Bombay High Court, in the matter between *Burroughs Welcome (1) Ltd. V/s. D. H. Ghosle and Ors. reported in 2000-III-CLR-264.*

4. Again on the same law point there is a judgment of our Hon'ble Supreme Court of India, in the matter between *Sri Rabinarayan Mohapatra V/s. State of Orissa and Ors. reported in 1991-II-CLR-6.*

5. Again on the same law point there is a judgment of our Hon'ble Bombay High Court, in the matter between *Laxman Tatyaba Korekar V/s. The Chief Executive Officer, Pune Zilla Parishad and Anr, reported in 1996-FLR-2585.*

6. Again on the same law point there is a judgment of our Hon'ble Bombay High Court, in the matter between *Hindustan Lever Ltd. V/s. Hindustan Lever Employees Union and Anr., reported in 2001-I-CLR-387.*

7. Again on the same law point there is a judgment of our Hon'ble Bombay High Court, in the matter between *Zilla Parishad Ahmednagar and Anr. V/s. Ramesh Sadashiv Dukre and Ors., reported in 2000-II-CLR-600.*

8. Then on the same law-point; there is a judgment of the Hon'ble Supreme Court of India, in the matter between *M/s. Oswal Agro Furana Ltd. and Anr. V/s. Oswal Agro Furana Workers Union and Ors., reported in AIR-2005-SC-1555.*

9. Lastly on the same law-point there is a judgment of our Hon'ble Bombay High Court in the matter between Kamani Tubes *Ltd.V/s. Kamani Employees Union and Ors., reported in 1988(56)-FLR-107.*

57. Then, through the compliation below Exh. U-106 it is the xerox-copy of the latest but unreported-judgment of our Hon'ble Bombay High Court, in the matter between *The General Manager (P and A), Hindustan Petroleum Corporation Ltd. V/s. The General Secretary, General Employees Association, in the Writ Petition No. 4814/2009,* dated 4th March 2010.

58. Then, through the compliation below Exh. U-108; the Learned advocate for these complainants has also referred to and relief upon the following case-laws :—

1. It is the judgment of the Hon'ble Supreme Court of India, in the matter between *Maharashtra State Road Transport Corporation and Anr. V/s. Casteribe Rajya P. Karmachari Sanghatana reported in 2009-III-CLR-262;* wherein it has been held that.... " As per Items 5, 6 and 9 as well as Item 10 of Schedule IV of the Act, the employees in Bombay complaints should also be given status, wages and other benefits of permanency as are being directed to be given in Thane complaints ".

2. It is the judgment of the Hon'ble Supreme Court of India in the matter between *Chief Conservator of Forests and Anr. etc. V/s. Jagannath Maruti Kondhare etc., reported in 1996-I-CLR-680* wherein it has been held that..... "As these employees have been kept temporary for 5-6 years. It is further held that, the appellant is guilty of unfair labour practice as per Item 6 of Schedule IV of the Act, 1971."

3. Then, there is a judgment of the Hon'ble Madhya Pradesh High Court, in the matter between *M. P. State Road Transport Corporation V/s. Harish Jayanti Prasad Agarwal and Ors., reported in 1989-II-LIJ-611* wherein it has been held that..... " The employee is required to work continuously for more than six months, he shall be deemed to be a permanent employee within the meaning of sub-clause (*i*). Since the employee had rendered a service for a period of six months as Lower Division Clerk, he should be deemed to be a permanent employee and paid salary for the post of Lower Division clerk."

59. With regard to the Issue No. 1; it is the oral submission of the Learned advovate for the respondents that, there was already an Award in terms of settlement for those workmen/ employees, who were in the bargainable-category; alongwith the management of the respondent undertaking. There was also a 'memorandum of Understanding' reached between the concerned-trade-union and the management. Hence, the said consent-terms, the copy of the same, which is with list below Exh. U-52 and the said-scheme was implemented; but in a phased-manner; as out of 123-casuals; 65-have been already regularized in the employment with the respondents. The Learned advocate for the respondents has submitted before the Court that, only 33 workmen have been remained to be regularised. To that effect; the complaint so filed by these complainants, alongwith others *i.e.* Complaint (ULP) No. 890, 1994 was also disposed off on 12th May 1995. Hence, there is a principle of *res judicata* does apply to these matters before the Court; he has submitted. These casuals duly titled as 'Handyman' and are working admittedly in the employment with the respondents. But till the year 2000, they were on the fixed term employment *i.e.* contractual work. It is not disputed that, the respondent is a ' food processing ', unit. The healthy ratio of the total turn over is 15% to 18% towards labour-charges. However, in the matter under consideration; it went upto 69%. Hence, by declaration of 3 VRS schemes; the surplus staff was required to be weeded-off and that VRS scheme was already upheld and got sanctioned as per the provisions of the Income-Tax; to that effect.

60. Therefore, as on today, more than sufficient mandays have been working with/in the employment of the respondents; but as there has been no a clearcut-vacancy, but only surplus labourers in the employment with the respondents.

61. To that effect the Learned advocate for the respondents has invited the attention of this Court to the Award in the form of the settlement, which is filed with list below Exh. U-52 and that has been or it is required to be accepted in its entirety; but it cannot be allowed by these complainants as 'pick and choose'. On Page No. 100 with the list; the learned advocate has invited the attention of this Court that, these complainants cannot seek permanency of their services in the employment with the respondents as it is hit by the principle of estoppal against them, since settlement has already been signed with the concerned-trade-union; for its member-employees with the management. And as per Section 19 (*5*) (*2*) of the ID Act, 1947 since that settlement has not been repealed, nor replaced with it is deemed to have been continued and applicable to these matters-in-hand.

62. It is a third limb of his oral submission that, there was a community of interest and having direct nexus with other workmen in the said employment with the respondents. Hence, now it is as per the principle of res-judicata and the principle analogous to it does operate as against these complainants as there was a settlement to that effect has been in operation between the same parties to this litigation.

63. With regard to Rule 4 (*c*) of the Model Standing Orders, it is the judgment of the Hon'ble Supreme Court of India, in the matter between *Secretary, State of Karnataka and Ors. V/s Umadevi and Ors. reported in 2006-II-CLR-261* does apply. As on today, the employer could not allocate any manday's work to these workmen *i.e.* these complainants he has submitted before the Court.

64. As far as his submissions with regard to the scheme of regularization is concerned, which has been already worked out and it has been implemented as per Page Nos. 98 to 102 with the list below Exh. U-52 so recorded in the Complaint (ULP) No. 890/1994, of course, it has been implemented in phased manner, he has submitted before the Court.

65. It is his oral submission in this context that, now these complainants in the form of workmen cannot reagitate this issue again, in respect of these matters; admittedly, there remained to be 33-causals only, but as its business has been reduced to minimum-extent and as per the law laid down by the Hon'ble Supreme Court of India, through its constitution Bench. It is binding upon this Court as it is the constitutional dictum as per Article 12 of the Consitution of India, which comes into play. There were 8 Air Carriers; for which the food articles were provided by these respondents' employees, but now only one Air Carrier has remained in its business, which is minimized.

66. Declaration of 3 VRS already do suggest that, there was a surplus labour and no retrenchment has taken place for the last preceding couple of years; the business exigencies of the respondents do not promote to incur more losses on accounts of labour expenses. The case laws on which these complainants have relied upon, are not applicable to the present facts and circumstances.

67. In support of his oral submissions, of course, at the last moment the Learned advocate for the respondents has filed on record with the list below Exh. C-23; a xerox-copy of the provisional profit and loss account for the period of November, 2009 to August, 2010 (Page Nos. 1 to 11) and the xerox-copy of the Circular dated 21st May 1997; imposing a ban on recruitment as directed by Ministry of Civil Aviation, Government of India Circular dated 14th March 1997 (Page Nos. 12 to 14). Naturally, it has been opposed to on behalf of these complainants; with an endorsement to that effect below it.

68. Through the compliation below Exh. C-19 the Learned advocate for the respondents has taken shelter of the following case laws.

1. It is the judgment of the Hon'ble Supreme Court of India, in the matter between *Secretary, State of Karnataka V/s. Umadevi and Ors., reported in 2006-II-CLR-261;* wherein it has been held that.....

" Unless the appointment was in terms of relevant rules, no rights are conferred on the appointee-Contractual appointments do come to an end at the end of the contract Temporary employees cannot claim to be made permanent on expiry of the term of appointment. Merely because he is continued beyond the term of his appointment, does not entitle him to be absorbed in regular service or made permanent Long service of an *ad-hoc* employee do not acquire any right to permanent appointment. The Court should not grant relief which would amount to per petuating an illegality. "

2. Again, it is the judgment of the Hon'ble Supreme Court of India, in the matter between *Madhyamik Siksha Parishad, U. P. V/s Anil Kumar Mishra and Ors., reported in AIR-1994-SC-1638*; on the same law point.

3. Then, it is the judgment of the Hon'ble Supreme Court of India, in the matter between *Hindustan Aeronautics Ltd. V/s. Smt. A. Radhika Thirumalai, reported in 1997 (76) FLR-933;* wherein it has been held that.....

" It is not open to the Tribunal either to direct the appointment of any person to a post or direct the concerned authorities to create a Supernumerary post and then appoint a person to such a post. The Tribunal should only give a direction to the appropriate authority to consider the case of the particular applicant in the light of the relevant rules and subject to the availability of the post. "

4. Again on the same law point there is a judgment of the Hon'ble Supreme Court of India, in the matter between *Satyanarayan Sharma and Ors. V/s. National Mineral Development Corporation Ltd. and Ors., reported in 1990-LAB-IC-1662.*

69. The pursis below Exh. U-93 so filed on record in the Complaint (ULP) No. 961/2000 stating therein that, these all 7 complaints wherein all these are casual-workers performing work with the repondents having similarly cause of action arose; as to that of the complaint (ULP) No. 961/2000. Therefore, all these matters have been 10 years old, and therefore, the complaints in the adoption of these documents and the cross-examination which has been recorded in the Complaint (ULP) No. 961/2000 and the same be treated as a part and parcel with others. In this context the oral evidence adduced on behalf of these complainants through an affidavited testimony of course, in order to proved the Issue No. 1 from the side of these complainants below Exh. U-89 in the Complaint (ULP) No. 961/200. It is the complainants by name Shri R. B. Asawale, who has filed his affidavited testimony, of course, in Marathi thereby reiterated the whole of the contentions the complainant has pleaded below Exh. U-1 in the respective-Complaint (ULP) matters as against the common-respondents. Wherein *vide* Para 13 on Page No. 9 below Exh. U-89 the said complainant has admitted that, he has been working with the respondents as a 'casual utility worker' and he has been deposing on his behalf and on behalf of other 38 employees involved in these complaints. In fact, as on today only for 33 employees, he have been deposing on their behalf, but not on behalf of Sarvashri Sunil Kale, Bhadange, Ramchandra Patankar, Baburao Patole, Waghmare and Shedge.

70. In the same breathing *vide* Para 13 below Exh. U-89 the said witness on behalf of these complainants has admitted that, he himself, alongwith other employees in the Complaint (ULP) No. 890/1994 have filed before the Industrial Court for getting benefit of permanency. In fact, according to him 123 employees were involved. Later on, they have filed Writ Petition No. 295/1993 before the Hon'ble High Court and after ther order passed in the Writ Petition No. 295/1993, they have filed the Complaint (ULP) No. 890/1994.

71. In respect of compliance of the said order, in respect of permanency; the witness below Exh. U-89 on behalf of these complainants has admitted in his cross *vide* Para 13 on Page No. 9 that, " It is true that out of 123 employees, 65 employees were made permanent in the phased manner as per the settlement before the Court in the Complaint (ULP) No. 890/1994. It is true that in the respondent establishment, there existed two unions i.e. Bharatiya Kamgar Sena and Chefair Employees Guild. It is true that in addition to casual employees there are about 380 permanent employees in the bargainable catgory are working in the respondent. It is true that general service conditions of the permanent employees are governed by the periodical settlement with both the unions. It is true that casual employees are not convered in the settlement signed with both the unions ".

72. In respect of business of the company the star witness below Exh. U-89 in his cross *vide* Para 13, Page 10 has fairly admitted that, the company has been dealing with the business of supplying-food, beverages, dry store and branded items on board the air craft. He further admitted in the same breathing that, in the year 1994-1995, the respondents used to supply the above referred materials to Indian Airlines, Singapure Airlines, Air Moritious, Sky Line, NABC, Air Flows and Air India. He further admitted that, at present the respondents are supplying the above referred material to Air India; only.

73. In the last para on Page No. 10, the star witness for these complainants below Exh. U-89 has admitted, that " Now says no workers from utility service has been made permanent after 1995. Witness volunteers the casual workers from other department have made permanent and their names are Supriya Personnel, Sujarat Telephon Operator, Rakesh Kumar Singh Supervisor. I am aware that, the Government had banned the recruitment in the public undertaking, including the respondents ".

74. The specific admissions given from the month of this witness below Exh. U-89 on Page 11 in his cross in respect of the documents with list Exh. U-19 (1 to 9 collectively); wherein all these 33 complainants in the present complaint including himself were working as casual employees with the respondents and they are working as 'Handyman'. He has fairly admitted further that, they have filed this present complaint for marking them permanent.

75. The witness has admitted in is cross on Page 14 below Exh. U-89 on oath before the Court that, " it is true that in the year 2000 the company was providing catering-services to 98 flights per month. It is true that work is reduced as compared to 2000, but I do not know whether company is providing catering service to supply food to only 41 flights both domestic and international ".

76. This witness has volunteered in his cross-examination *vide* Para 14 on Page Nos. 11 and 12 by deposing on oath that, " we are the members of Bharatiya Kamgar Karmachari Mahasangh (BKKM). It is true that, the Chefair Employees Guild is affiliated to BKKM. in respect of the working of the union, the said witness below Exh. U-89 has admitted in his cross on Page 12, the Court quotes him, " It is true that Mr. Bhai Jagtap is also the General Secretary of the Chefair Employees Guide. It is true that in the General Demands, the union covered the issue of the wage-rise of casual employees. It is true that the union has signed several settlements with the management ".

77. In respect of the strength of workers, the said witness below Exh. U-89 in his cross on Page 12 *vide* Para 14 has admitted that, due to reduction in the flights, the work is also reduced and therfore company cannot provide full work to 380 permanent worker and also to casual workers. Further he has admitted that, since they are doing the said work, they are also ready to continue to do the said work.

78. From the side of the respondents in order to prove its 'defence' and simultaneously in order to disprove the case of these complainants a single solitary witness by name one Shri B. H. Kale below Exh. C-11 in the Complaint (ULP) No. 843/2000 has filed his affidavited testimony, of course, it is in relation to that complainant, who has not adduced oral evidence on record till the date. Hence, it is not required to be considered, at this juncture.

79. However, in respect of other complaints in this group; the affidavited-testimony of one Shri B. H. Kale below Exh. C-18 in the basic Complaint (ULP) No. 961/2000 and for others got filed on record; wherein in short; he has contended by way of his affidavited-testimony in lieu of his examinaton-in-chief that the unit has been employing 330 permanent employees in the various trade-categories and in addition to 120 non-permanent-employees; including these 33 non-permanent employees covered under the pending-complaint. He has referred to *vide* Para 2 on Page 2 that, taking into consideration the uncertain and bleak business-conditions and that at least 120 permanent-workmen in the bargainable category in the various trade categories are 'surplus', to the requirement of the company, the union/s did not press for permanency of these non-permanent employees. *Vide* Para 3 in his affidavited-testimony he has further referred to the notification dated 14th March 1997 issued by the Central Government that, its respective Ministry in the form of direction to the Public Sector-Units stating that, "in the first phase, the posts lying vacant for more than 3 years in various public sector-undertakings be abolished".

80. However, below Exh. C-18; he has deposed by way of examination in chief that, he has been deposing in other complaints so named therein also. He has fairly admitted in his cross that, he knew these employees/complainants and fairly admitted that, their nature of work is similar to that of workers in last grade of that establishment. Then, he has referred to the documents with the list below Exh. U-52 in the form of compromise has taken place in the Complaint (ULP) No. 890/1994, which was filed by Maharashtra Kamgar Congress, against these respondents, in respect of 123 employees; out of 65 employees have been made permanent (Page No. 98 to 102 with the list below Exh. U-2 and the employees at Sr. Nos. 103 to 106). The fair admission comes from the month of the single solitary witness on behalf of the respondents below Exh. C-18 in his cross *vide* Para 6 on Page 4 that, " *It is true that all the 33 employees were/are not the members of both the unions referred by him in his affidavit. During the relevant period, both the union were not recognised union for the undertaking of respondents*". *Vide* Para 7 below Exh. C-18 it is his admission, the Court quotes him, "*It is true that we have not given the benefits of settlement to these employees since the company is facing losses during these years.* It is true that we are not porviding the casual leave, sick leave, privilege leave, leather shoes and raincoat to these employees, which are being given to the permanent employees. We are paying consolidated-wages to these employees".

81. In respect of alleged losses to the respondents, the said witness below Exh. C-18 in his cross examination, he has admitted on Page 5, the Court quotes him; "There is no post of sweeper-vacant-in our company. I am not aware whether these 33 persons are the senior-most-amongst 120 non-permanent employees. It is true that we have not produced any documentory proof to show that the respondent-unit is incurring as cash loss of about 80 Lakh per month. It is true that we have paid Rs. 20 Lakh towards the arrears of benefit of settlement to the permanent workmen on yesterday". On Page No. 6 below Exh. C-18 the said-witness for the respondents has admitted that, they have not produced any document to show that, the revenue is reduced as compared to earlier. But further admitted that, they have not filled in the post of employees, who have retired, VRS employees and employees expired during these years.

82. The relevant but the important admission comes from the month of these single solitary witness for these respondent below Exh. C-18 in his cross on Page 6 *vide* Para 7 that, "not to terminate the services of these 33 employees, without following due process of law. It is true that, these employees have been working since the year 2000 and completed 240 days in each calender year. It is true that the provisions of the standing orders are applicable to these employees of the respondents."

83. In order to appreciate/scrutinise and analyse the oral evidence, it is the abundant duty of this court to refer and go through the various-documents the parties to this litigation have filed it on record in the Complaint (ULP) No.961/2000 with its below Exh. U-52; the documents so filed on record by these complainants, the Court has gone through. It is in the form of xerox-copies of the temperory Identity-Card so issued in favour of these complainants by the management of the respondents (Page No.1 to 32.). Then, right from Page No.33 onward with the list below Exh. U-52 in the xerox-copies of the PF slips in the name of these complainants so issued by the authority concerned. They are from running Page No. 33 onward to Page No. 69. Then, ESI Slips right from Page No.70 onward to Page No. 97.

84. Page No. 98 onward with the list below Exh. U-52 is the xerox copy of the settlement; through the proposed-scheme for regularization of casuals before the Hon'ble Bombay High Court in the writ Petition No.295/1993; wherein on Page No.99 *vide* Para 3 it is mentioned that, all the casuals will be regularized as sweepers and raised rest of the casuals-workers in the seniority list will be considered according to their order of seniority as and when regular vacancy arises and if it becomes necessary to fill the vacancy depending upon the quantum of work." *Vide* Para 5 on Page 100 it is also mentioned therein that, the first respondent will take wages to the casuals workers in the said seniority list at the rate equivalent to minimum pay in the pay scale of regulary employee sweepers. This consent-terms have been signed on 12th May 1995 in the complaint (ULP) No.890/1994 and list of casual from Page No.103 to 104; out of which the employees at Sr. No.1 to 65 have already been made permanent and rest from Sr. No.66 onward to 123 they are still to be made permanent regularized. Then Page 106 is the list of 13 employees who have so far expired on the date so mentioned against them. Then, Page No.107 does show the list of retired workers, they are 15 in numbers and Page No. 108 does show that in all 12 persons have so far opted for VRS. Lastly, it is Page No. 109, which show that, in all 7 persons have been dismissed resigned so far; from the employment of the respondents.

85. The Court has also gone through the xerox-copies of the various orders so passed with the respective dates in the pending matters as mentioned therein with the list below Exh. U-90. on running Page No.69 with the said list below Exh. U-90; it does show that as per the demand so made at Sr. No. 7; it is in respect of permanency in the Reference matter specifically "Any Workmen who has, worked in the Company for more than 180 days on aggregatear who shall work here after should be made permanent from the day he has completed the said period or shall complete the period and should be given all benefits facilities that are being enjoyed by other permanent workmen."

86. Then, the Court has also gone through the documents, of course, in the form of xerox-copies of the same with the list below Exh. U-95; showing the employees who have retired, opted resigned, dismissed and expired, their pay slips etc. from running Page No.1 to 21 respectively.

87. The Court has also gone through the documents with list below Exh. C-20 so filed on record on behalf of the respondents on the 6th May 2010. It does show that, as per the Charter of Demands' dated 31st December 1997 so served upon the respondents by Chefair Employees Guild, Mumbai particularly Demand No.7 wherein so included. It is in relation to permanency as mentioned specifically on running Page No.8 therein. It is on the letterhead of the Chefair Employees Guild Union dated 31st December 1997 and in the Reference (IT) No. 75/1999 and that has been culminated into the 'Memorandum of Understanding' between the Hotel Corporation of India Ltd. And the representing employees *i.e.* General Secretary, Chefair Employees Guild, affiliated to Bhartiya Kamgar Karmachari Mahasangh and that has been recorded and registered by ways of 'agreement/settlement' under Section 2 (*p*) read with Section 18 (*1*) of the ID Act, 1947 read with Rule 62 of the Industrial Disputes (Bombay) Rules, 1957 with the wage scales, increment, classification. It is with effect from 16th November 1997 as mentioned therein that, "existing wage scales and incremental scales in the time scale as are applicable to the permanent employees in the various trade categories in the bargainable category shall be substituted by the following wages scales and incremental scales in the time scale". " Then, service increments and other allowances so mentioned therein particularly on Page No. 19 under the heading ' General '. It is mentioned therein that. " The union agrees that all other demands mentioned in the Charter of Demand other than those covered above are hereby withdrawn and dropped ". Then, in respect of

operation of the settlement on running Page No. 22 it is mentioned that. " The settlement shall come into force with effect of 16th November 1997 if not specifically set out otherwise and shall remain in force for 5 years *i.e.* upto 15th November 2002 and also remain in force thereafter until such time the said is terminated by either of the parties under the provisions of sub-section 2 of section 19 of the Industrial Disputes Act, 1947."

88. Accordingly, both these sides to the said litigation have requested the Hon'ble Industrial Tribunal in Reference (IT) No. 75/1999 for passing a 'consent Award' in terms of settlement dated 24th October 2002 and thus, the said Award got passed as per the order so mentioned therein dated 16th December 2002 on running Page No. 40. It is mentioned to that effect with specific mention that, during the pendency of this reference, the parties to this reference have settled the general demands amicably in terms of settlement dated 24th October 2002. Accordingly, the reference was disposed of in terms of settlement dated 24th October 2002. It is *vide* Award passed dated 27th November 2002 in the Reference (IT) No. 75/1999.

89. Similarly, the Court has also perused the documents in form of xerox-copy of the settlement dated 19th November 2007 for the year, 2002 to 2007 so filed below Exh. U-107 on behalf of these complainants on 4th December 2010.

90. This Court has also gone through the letter by way of communication dated 23rd December 2005 addressed by the union by name : Bharatiya Karmachari Kamgar Mahasangh dated 23rd December 2005 to the management of the respondents in respect of complying with the cosent terms duly signed between them in the Complaint (ULP) No. 890/1994 dated 12th May 1995 and they have sought to be complied with by the management accordingly. Therefore, relving on the basis of the material on record, of course, consisting of both oral as well as documentary evidence it is revealed/established from the side of these complainants undoubtedly that, these complainants have been in the continuous employment with to that of the respondents for years together. However, precisely they were getting that artificial break ; but that have been admitted to be a break for few days in the service of these complainants prior to the 1995, but later on ; by virtue of the interim relief order so passed by the Learned Predecessor of this Court; they have been continuously working and completed 240 days of continuous service in the employment with these respondents as on today.

91. However as far as the concerned terms so arrived at between the concerned trade-union with the management of the respondents in the complaint (ULP) No. 890/1994 whereby out of 123 employees 65 employees have been made so far permanent by these respondents in its employment. It is also revealed therefrom, of course, both as per the admissions given by the single solitary witness on behalf of these complainants as well as on behalf of these respondents that, so far 33 employees have been remained to be confirmed/made permanent. But to that effect; the clauses of the said settlement comes into play namely that rest of the casual employees/ workers in the seniority list will be considered as and when regular vacancy arises and if it becomes necessary to till vacancy depending upon the quantum of work.

92. Similarly as per the terms of settlement duly signed and the final Award in terms of the said settelment as per the provisions of Section 2 (p) read with Section 18 (1) of the ID Act, 1947 read with Rule 62 of the Industrial Disputes (Bombay) Rules, 1957 has been culminated/merged with the final Award so passed by the Industrial Tribunal, Mumbai in the Reference (IT) No. 75/ 1999 dated 27th November 2002 has come to an end in respect of the general demands so made including the Demand No. 7 in respect of parmanency of these casual employees concerned. However since that settlement has become effective having both force of law, both of facts and in the eyes of law, but the said settlement has been done in respect of other demands duly agreed

upon and the Final-Award has taken place in terms of the said settlement; except those which have not been covered and included therein i.e. Demand No.7 in respect of permanency and they an have treated as withdrawal/drop. No doubts; both on facts and in the eyes of law; similarly since, these have been specifically based upon the admissions given on behalf of the complainants hit by the principle of res-judicata and principle analogous thereto; as it is settled principles of law that they cannot hasitate/rehesitate the same demand of their permanency; through these Complaint (ULP) matters under the provisions of the Act, 1971. Similarly, the principle of estoppal also comes as a hurdle in their way, as far as these matters filed by them as against these common-respondents under the provisions of the Act,1971. It is not denying rather it is undisputed fact that, out of 123 employees; so far 65 employees have been admittedly made permanent/regularised their services in the employment with the respondents. However, remaining 33 employees so involved in this group of Complaint (ULP) matters are awaiting for regularization of their services in the employment with the respondents as on today. But it is required to be done as per the settlement so arrived at and binding upon it in the Complaint (ULP)No. 890/1994 as it is to be done in a phased manner as far as the seniority of these workers are concerned. But subject to proviso as mentioned therein and agreed upon that as and when the regular vacancy arises therein and it was for the management and concerned-union to fill the same, when it was necessary, of course, again proviso/subject to depending upon the quantum of work.

93. It has also admitted from the side of these complainants also that, the quantum of work has been reduced, as the respondents have been feeling/facing short to provide the said normal work to their permanent employees, as well as alongwith these non permanent employees too.

94. However, it is a silent reature of the fact that, none of these two unions was at the material time a recognised-trade-union with the respondent industry under the provisions of the Act, 1971, but since the settlement arrived at and the complaint so disposed of in terms of settlement; to which these complainants were parties to the litigation in the Complaint (ULP) No. 890/1994 alongwith others are required to wait, till vacancy to be filled in. Course on the basis of quantum of the work, depending upon the quantum of work in the business of the respondents concerned.

95. It is not disputed at this juncture that, these complainants in general and each individual complainant in particular has completed 240 days of continuous service within the meaning of Section 25B of the ID Act, 1947; in each year/last preceding 12 months, of course on the basis of the very interim-relief-order so passed by the Learned Predecessor of this Court to that office.

96. At this juncture, there is no escape for this Court; but to dwell upon the law-point which has been from letter involved in these group of Complant (ULP) matter, of course, though filed individually and separately by these complainants concerned as against the common respondents: namely as to whether the judgment of the Hon'ble Apex Court of the Land in general but the Constitutional Bench Comprising of Honble Chief Justice, alongwith other 4 Judges *i.e.* in all 5 Judges Bench (supra 2006-II-CLR-261) as the landmark judgment known as Secretary, State of Karnataka and Ors. *V/s.* Umadevi and Ors., is required to be compared, with the later judgment in time of the Hon'ble Supreme Court of India itself, of course, comprising of two Hon'ble Judges at that particular time (supra 2009-III-CLR-262).

97. More precilsely with due respect; the law propounded by the Hon'ble Supreme Court of India (supra 2009-III-CLR-262), is in respect of the powers of the industrial Court, labour Court; as well as Section 30 (1) (2) as well as read with Section 32 of the Act, 1971. However, since though earlier in time; the judgment of the Hon'ble Apex Court of the Land itself, but as it is of the Constitutional

Bench, it overrides the judgment of the Hon'ble Apex Court of the Land itself but later in time *i.e.* 2009-III-CLR-261 as it is binding upon this Court on the facts and Circumstances as narrated in this group of Complaint (ULP) matters filed under the provisions of the Act, 1971. Therefore, the ratio laid down therein (2006--II-CLR-261) does hold the soil and it does apply to the facts and Circumstances as arose in this group of 7 Complaint (ULP) matters on hand before the Court.

98. The Learned advocate for these complainants while dictating the judgment to the Court steno has tried to invite the attention of this Court, to para 26 or Page No. 275 of the said judgment and submitted before the Court that, the Complaint filed under the provisions of the Act, 1971 were not before the Hon'ble Supreme Court of India, of course, through its Constitution Bench at that time no doubt the statement made by the Learned Advocate for these complainants is found relevant. However, the general principle of law so laid down by the Constitution Bench of the Hon'ble Supreme Court of India is more binding in nature as well as subordinate Courts are concerned as per Article 34 and 41 of the Constitution of India; as it is the principle of law laid down in general and not in particular of the any statute. Admittedly, the Act, 1971 is the State Act cannot override with the provisions of the Act, 1947; which the Parenr Act. Specifically, in respect of the issue of regularization of services, which comprises of both common issue of facts and law. Thus, the dilemma could be rested at this juncture; as far as these matters are concerned.

99. It has not come on record from the side of these complainants that these respondents have been doing it deliberately, there was for the respondents to regularize the services of 65 casuals in its employment, as per the terms of settlement so agreed upon in the earlier matter so disposed off accordingly; but since it has been done earlier; there was no deliberate, international act on part of these respondents; at this juncture. But, in fairness of these things; in the changed scenario; the compelling circumstances have not been allowing these respondents to do so.

100. Thus, with due respect the law propounded by our Hon'ble Bombay High Court (unreported-judgment in Writ Petition No. 4814/2009 dated 4th March 2010, through Compilation below Exh. U-106) as well as 1992-I-LLR-350; 2000-III-CLR-122, 1996-FLR-2585 and 2001-I-CLR-387. Simlarly, of the Hon'ble Supreme Court of India (AIR-2005-SC-1555), with due respect do not lend any help and assistance in favour of these complainants; as far as the Issue No. 1 is concerned at this juncture.

101. Accordingly, it is held that, these complainants have utterly failed to prove that, these respondents have committed an unfair labour practice as against them, within the meaning of Items 5, 6 and 9 or either one of it of Schedule IV of the Act, 1971, of course, through the cogent evidence before the Court. But on the other hand; the respondents in these group of Complaint (ULP) matters have proved its defence and disproved the case of these complainants, of course, through the cogent evidence before the Court. Accordingly, the Issue No. 1 is required to be answered in the Negative for the reasons as narrated above.

102. *Issue Nos. 2 and 3.*—With regard to the Issue Nos. 2 and 3 are concerned; it is worth to mention here that, no relief these Complainants have prayed for as against these respondents is deserved to be granted in their favour. It is precisely on the basis of the negative-finding the Court has given to the Issue No. 1 in the forgoing paragraphs of this common-judgment as above. However, in is worth to mention here that, these respondents would be having no difficulty to continue these-complainants in its employment in the days to come and pay them their wages so agreed upon but in any case not less than the minimum-wags so applicable to them as per the Minimum Wages Act, 1948. It is also worth to mention here that, these respondents do give a topmost priority to these complainants of course, depending upon their seniority as per the seniority list so maintained by it; in case of giving permanency and permanency benefits to its employees, in the days to come.

103. With this view in mind the Issue Nos. 2 and 3 are required to be answered in the 'Negative'.

104. Before this Court parts with this common-judgment; as it has been pointed out by the Learned Advocate for these complainants that, as per Clause 5 on Page 100 of the consent-terms so arrived at between the parties to the litigation in the Complaint (ULP) No. 390/1994; it would not be out of place to direct these respondents to pay these complainants/casual-workers as per their seniority; the rate of wages-equivalent to minimum pay in the pay scale of the regular employees/sweepers.

105. Finally the Court to proceeds the following common-order, which would meet the ends of justice, equity and good conscience :—

Common Order

1. Complaint (ULP) No. 843/2002 filed by the complainant below Exh.U-I under Section 28 for unfair labour practice under Items 5, 6 and 9 of Schedule IV of the Act, 1971 stands dismissed for want of prosecution.

2. Complaint (ULP) No. 961 of 2000, 1098 of 2000, 1177 of 2000, 1319 of 2000, 345 of 2001 and 454 of 2001 filed by the complainants below Exh. U-1 under Section 28 for unfair labour practice under Items 5, 6 and 9 of Schedule IV of the Act, 1971 stands dismissed of course with no order as to costs.

3. Notwithstanding with the aforesaid order at Sr. No.1. However, the repondents would continue to engage these complainants in its employment in future and pay them their wages accordingly for the work they would be doing in its employment.

4. It is further directed that, these respondents to give them a top-priority in respect of regularization of their services in future of course, depending upon their seniority as per the seniority list so maintained by it.

5. It is hereby directed that these respondents would pay wages to these complainants/ casual workers in the said seniority; at the rate equivalent to the minimum pay in the pay scale of regular employees/sweepers.

6. It is to be complied with within a month from today.

Place : Mumbai,
Dated 5th and 6th January 2011.

S. K. SHALGAONKAR,
Member,
Industrial Court, Mumbai.

K. N. DHARMADHIKARI,
I/c. Registrar,
Industrial Court, Mumbai,
dated 24 January 2011.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. पी. पी. जाधव, न्यायाधीश, कामगार न्यायालय, रत्नागिरी यांचा दिनांक २३ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३६९.—श्री. पी. पी. जाधव, न्यायाधीश, कामगार न्यायालय, रत्नागिरी यांना त्यांच्या दिनांक २३ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १७ फेब्रुवारी २०११ ते दिनांक २२ फेब्रुवारी २०११ पर्यंत एकूण ६ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक १६ फेब्रुवारी २०११ रोजीची सुट्टी दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. पी. पी. जाधव हे रजेवर गेले नसते तर त्यांची न्यायाधीश, कामगार न्यायालय, रत्नागिरी या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. पी. पी. जाधव न्यायाधीश, कामगार न्यायालय, रत्नागिरी या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ५ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. आर. एम. पांडे, न्यायाधीश, ३ रे कामगार न्यायालय, पुणे यांचा दिनांक १४ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३७६.—श्री. आर. एम. पांडे, न्यायाधीश, ३ रे कामगार न्यायालय, पुणे यांना त्यांच्या दिनांक १४ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १७ फेब्रुवारी २०११ ते दिनांक १८ फेब्रुवारी २०११ पर्यंत एकूण २ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक १६ फेब्रुवारी २०११ व रजेच्या पुढे दिनांक १९ फेब्रुवारी २०११ व २० फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. आर. एम. पांडे हे रजेवर गेले नसते तर त्यांची न्यायाधीश, ३ रे कामगार न्यायालय, पुणे या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. आर. एम. पांडे हे न्यायाधीश, ३ रे कामगार न्यायालय, पुणे या पदावर स्थानापन्न होतील.

आदेशावरून,

का. ना. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ७ मार्च २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. एस. एम. भोसले, न्यायाधीश, कामगार न्यायालय, अमरावती यांचा दिनांक १४ फेब्रुवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक ३७७.—श्री. एस. एम. भोसले, न्यायाधीश, कामगार न्यायालय, अमरावती यांना त्यांच्या दिनांक १४ फेब्रुवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २४ फेब्रुवारी २०११ ते दिनांक २५ फेब्रुवारी २०११ पर्यंत एकूण २ दिवसांची अर्जित रजा, रजेच्या पुढे दिनांक २६ फेब्रुवारी २०११ व दिनांक २७ फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. एस. एम. भोसले हे रजेवर गेले नसते तर त्यांची न्यायाधीश, कामगार न्यायालय, अमरावती या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. एस. एम. भोसले हे न्यायाधीश, कामगार न्यायालय, अमरावती या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ७ मार्च २०११.

BY THE ASSISTANT REGISTRAR, BOMBAY INDUSTRIAL RELATIONS ACT, 1946, AURANGABAD

NOTIFICATION

No. AWB/BIR/2011/01.—In exercise of the powers conferred on me under section 16 read with Section 14 of the Bombay Industrial Relations Act, 1946 and Rule 26 of the Bombay Industrial Relations Rules, 1947, I, do hereby on this 14th March 2011 register the Kishan Bank Karmachari Sanghatana Latur C/o. House No. 34 Sahayog Grah Nirman Sahakari Sanstha Maryadit Nilaga, Dist. Latur as a Representative Union for the "Banking Industry" in the local area of Latur Municipal area in Latur District in place of Bank Karmachari Sangh, Latur for reasons stated in the order dated 14th March 2011 (Annexed).

"II"

No. AWB/BIR/2011/01.—In exercise of the powers conferred on me under section 23(*4*) of the Bombay Industrial Relations Act, 1946 and Rule 26 of the Bombay Industrial Relations Rules, 1947, I, do hereby on this 14th March 2011 enter the Kishan Bank Karmachari Sanghatana Latur C/o. House No. 34 Sahayog Grah Nirman Sahakari Sanstha Maryadit Nilaga, Dist. Latur as a Approved Union in the list of Approved Union for the "Banking Industry" in the local area of Latur Municipal area in Latur District in place of Bank Karmachari Sangh' Latur for reasons stated in the order dated 14th March 2011 (Annexed).

सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद

अर्ज क्रमांक बीआयआर/०१/२०१०.—सरचिटणीस, किसान बँक कर्मचारी संघटना, लातूर (ज्यांना यापुढे अर्जदार संघटना असे संबोधण्यात येईल) या संघटनेने मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६(१) आणि कलम २३(४) अंतर्गत दिनांक १ जून २०१० रोजीचा अर्ज करून लातूर जिल्ह्यातील बँकींग उद्योगातील लातूर नगर परिषद या स्थानिक क्षेत्रासाठी त्यांचेकडील सदस्य संख्या जास्त आहे या कारणासाठी बँक कर्मचारी संघ, लातूर या नोंदणीकृत संघाच्या जागी नोंदणी करण्याकरिता अर्ज केला.

अर्जदार संघटनेच्या दिनांक १ जून २०१० रोजीच्या अर्जास अनुसरून मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६(१) नुसार बँक कर्मचारी संघ, लातूर या नोंदणीकृत संघास दिनांक ९ जुलै २०१० रोजीची रजिस्टर पोस्टाद्वारे नोटीस पाठवून अर्जदार संघाची त्याच्या जागी नोंदणी का करण्यात येऊ नये याचे कारण नोटीस मिळाल्यापासून ३० दिवसाचे आत सादर करण्याबाबत फर्माविण्यात आले. सदर कारणे दाखवा नोटीस सोबत अर्जदार संघटनेच्या दिनांक १ जून २०१० रोजीच्या अर्जाची तसेच अर्जदार संघटनेने अर्जासोबत सादर केलेल्या घटना व नियमाची, श्रमिक संघ अधिनियम, १९२६ अंतर्गत अर्जदार संघटनेच्या नोंदणी प्रमाणपत्राची छायाप्रत, अर्जदार संघटनेने सादर केलेल्या कार्यकारी मंडळाच्या ठरावाची प्रत बँक कर्मचारी संघ, लातूर यांना दिनांक ९ जुलै २०१० रोजीची कारणे दाखवा नोटीस सोबत पाठविण्यात आली. याचवेळी मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६(४) नुसार अर्जदार संघटनेचा दिनांक १ जून २०१० रोजीचा अर्ज दिनांक १५ जुलै २०१० रोजीच्या डाक नोंद देय पोस्टाद्वारे व्यवस्थापक, शासकीय मध्यवर्ती मुद्रणालय, चर्नी रोड, मुंबई यांचेकडे प्रसिद्धीसाठी पाठविण्यात आला व सदरचा अर्ज **राजपत्रात** प्रसिद्ध झाला तसेच मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६(२) नुसार अर्जदार संघटनेचा दिनांक १ जून २०१० रोजीच्या अर्जाची व दिनांक ९ जुलै २०१० रोजीच्या कारणे दाखवा नोटीसची प्रत सरकारी कामगार अधिकारी, लातूर यांना पाठविण्यात आली.

बँक कर्मचारी संघ, लातूर यांनी दिनांक ११ ऑगस्ट २०१० रोजीच्या पत्राद्वारे दिनांक ९ जुलै २०१० रोजीच्या कारणे दाखवा नोटीसच्या संदर्भात खुलासा सादर केला. सदर खुलाशाद्वारे खालील मुद्दे उपस्थित केले :—

१. किसान बँक कर्मचारी संघटना, लातूर यांनी दिनांक १ जून २०१० रोजी कलम १६ खालील अर्ज दाखल करण्यापूर्वी आपणाकडे दिनांक ४ नोव्हेंबर २००९ रोजी कलम १६ खाली लातूर जिल्हा लोकल एरियासाठी आमच्या संघटनेच्या जागी किसान बँक कर्मचारी संघटना, लातूर यांची प्रातिनिधीक संघ म्हणून नोंदणी व्हावी असा अर्ज केला होता. सदरचा अर्ज दिनांक ५ मार्च २०१० रोजी आपणाकडून निकाली काढण्यात आलेला आहे. कलम १६ मधील तरतुदीनुसार सदर कलमाखाली दाखल केलेला पुर्वीचा अर्ज निकाली काढल्यानंतर १ वर्ष अन्य कोणतेही अर्जाची सदर कलमाखालील आपण दखल घेऊ नये अशी स्पष्ट तरतूद असल्यामुळे किसान बँक कर्मचारी संघटना, लातूर यांनी दिनांक १ जून २०१० रोजी कलम १६ खाली केलेल्या अर्जाची दखल आपणास घेता येणार नाही.

२. किसान बँक कर्मचारी संघटना, लातूर ही संघटना पूर्णपणे लातूर जिल्हा मध्यवर्ती सहकारी बँक लि. लातूर या बँकेच्या व्यवस्थापनाने पुरस्कृत केलेली व व्यवस्थापनाच्या मर्जीतील संघटना आहे. सदर संघटनेने दिनांक १० जानेवारी २००९ रोजी रजिस्ट्रेशन करण्याबाबत जो ठराव पारित केला आहे, त्या सभेच्या दिवशी सर्व कार्यकारणी सदस्य कामावर होते.

३. सदर संघटनेची सदस्य संख्या ११९ लोकल एरियामध्ये असल्याचे नमूद केले आहे. ती सदस्य संख्या लोकल एरियातील बँकींग उद्योगामध्ये काम करणाऱ्या एकूण कर्मचारी संख्येच्या २५ टक्के पेक्षाकमी असल्याने प्रातिनिधीक संघ म्हणून नोंदणी करण्यासाठी किमान आवश्यक असलेल्या सदस्य संख्येची पूर्तता सदर संघटना करत नसल्यामुळे सदर संघटनेचा अर्ज रद्द करणे जरुरीचे आहे.

४. सदर संघटनेने ट्रेड युनियन ॲक्ट खाली दिनांक १७ जानेवारी २००९ रोजी नोंदणी करण्यासाठी अर्ज केला होता. सदर अर्जासोबत दाखल केलेल्या संघटनेच्या घटनेतील कलम २८ मध्ये असलेल्या तरतुदीनुसार सरकारी लेखा परिक्षकाची तरतूद त्यामध्ये केलेली नाही तसेच आपल्या कार्यालयाकडून मिळालेल्या माहितीनुसार किसान बँक कर्मचारी संघटना, लातूर यांनी ट्रेड युनियन ॲक्टखालील नोंदणी अर्जासोबत जी घटना दाखल केली त्याची प्रत आम्ही या खुलाशासोबत दाखल करीत आहोत. सदर कलमामध्ये सदर अर्जावर संघटनेने कलम २८ ऐवजी कलम ४(ब) मध्ये केंव्हा दुरुस्ती केली व ती आपल्या कार्यलयाकडून केंव्हा नोटीफाय करण्यात आली यासंबंधीची कागदपत्रे आमच्या संघटनेस देण्यात यावीत. सदर कागदपत्रे मिळाल्यानंतर कायदेशीर मुद्यांबाबत आमचे म्हणणे दाखल करीत आहोत.

५. सदर अर्जामध्ये अर्जदार संघटनेने आपल्या संघटनेपेक्षा त्यांची सदस्य संख्या जास्त असलेबाबत केलेला दावा पूर्णपणे चुकीचा असून खोटा आहे. त्यामुळे अर्जदार संघटनेचा अर्ज रद्द करावा, ही विनंती.

बँक कर्मचारी संघ, लातूर यांनी दिनांक ९ जुलै २०१० रोजीची कारणे दाखवा नोटीस संदर्भात दिनांक ११ ऑगस्ट २०१० रोजीच्या पत्राद्वारे सादर केलेल्या उपरोक्त खुलाशासंदर्भात आपले स्पष्टीकरण सादर करण्याबाबत सरचिटणीस, किसान बँक कर्मचारी संघटना यांना दिनांक २१ सप्टेंबर २०१० रोजीच्या पत्राद्वारे कळविण्यात आले.

दरम्यान किसान बँक कर्मचारी संघटना, लातूर या अर्जदार संघटनेने मा. उच्च न्यायालय, मुंबई, खंडपिठ औरंगाबाद यांचेसमोर याचिका क्र. ८१५७/२०१० दाखल केलेल्या प्रकरणात प्रेअर क्लॉज सी अन्वये सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६ औरंगाबाद यांना अर्जदार संघटनेने दिनांक १ जून २०१० रोजीचे अर्ज कायद्यातील तरतुदीनुसार लवकरात लवकर निकाली काढण्याचे निदेश देण्याबाबत विनंती केली. सदर याचिकेची प्रत या कार्यालयास दिनांक ६ ऑक्टोबर २०१० रोजी प्राप्त झाली ज्यामध्ये सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद यांनी दिनांक १९ नोव्हेंबर २०१० रोजी प्रतिज्ञापत्राद्वारे म्हणणे दाखल केले.

या कार्यालयाच्या दिनांक २१ सप्टेंबर २०१० रोजीच्या पत्रास अनुसरून किसान बँक कर्मचारी संघटना, लातूर या अर्जदार संघटनेने दिनांक २५ ऑक्टोबर २०१० रोजीच्या पत्राद्वारे बँक कर्मचारी संघटनेच्या दिनांक ११ ऑगस्ट २०१० रोजीच्या खुलाशावर आपले स्पष्टीकरण दाखल केले परंतु सदरचे स्पष्टीकरण परिपूर्ण व मुद्देनिहाय नसल्यामुळे दिनांक २९ ऑक्टोबर २०१० रोजीच्या या कार्यालयाच्या पत्राद्वारे या कार्यालयाने पुन्हा सर्व मुद्यांबाबत स्पष्टीकरण सादर करण्याचे अर्जदार संघटनेस सूचित केले. त्यानुसार किसान बँक कर्मचारी संघटना, लातूर या अर्जदार संघटनेने दिनांक १६ डिसेंबर २०१० रोजीच्या पत्राद्वारे आपले स्पष्टीकरण सादर केले जे खालीलप्रमाणे आहे :—

१. किसान बँक कर्मचारी संघटना, लातूर या अर्जदार संघटनेने मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६ अंतर्गत सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद यांचेकडे दिनांक ४ नोव्हेंबर २००९ रोजीचा लातूर जिल्हा या स्थानिक क्षेत्रासाठी अर्ज केला होता. परंतु सदरचा अर्ज हा जिल्ह्यातील प्रत्येक स्थानिक क्षेत्रासाठी स्वतंत्र नसल्यामुळे तसेच अर्जासोबत आवश्यक ते शुल्क न भरल्यामुळे सदरचा अपूर्ण अर्ज सहायक निबंधक यांनी दिनांक ५ मार्च २०१० रोजी त्रुटी काढून निकाली काढला होता. सदरच्या अर्जावर कोणत्याही प्रकारची कायदेशीर कार्यवाही न करता प्राथमिक स्तरावर छाननीमध्ये सदरचा अर्ज निकाली काढलेला आहे. सदरचा अर्ज कायद्यातील विविध प्रक्रिया पूर्ण करून गुणवत्तेवर निकाली काढलेला नसल्यामुळे बँक कर्मचारी संघटना, लातूर यांनी किसान बँक कर्मचारी संघटनेस १ वर्षापर्यंत पुन्हा नव्याने अर्ज करता येत नाही असा जो मुद्दा उपस्थित केलेला आहे तो मुद्दा उपरोक्त निवेदन लक्षात घेता गैरलागू आहे म्हणून किसान बँक कर्मचारी संघटनेस मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६ अंतर्गत मान्यताप्राप्त युनियनचा दर्जा प्राप्त करण्यासाठी दिनांक ४ नोव्हेंबर २००९ रोजीचा अर्ज गुणवत्तेवर (मेरीट) निकाली काढला नसल्यामुळे नव्याने अर्ज करण्यास कोणतीही बाधा येत नाही.

२. किसान बँक कर्मचारी संघटना, लातूर ही अर्जदार संघटना कर्मचाऱ्यांच्या हितासाठी कार्यरत असलेली एकमेव संघटना असून ती व्यवस्थापनाने पुरस्कृत केलेली किंवा व्यवस्थापनाच्या मर्जीतील संघटना नाही. तसेच पुढे स्पष्ट करण्यात येते की, किसान बँक संघटना नोंदणी करण्यासंदर्भात दिनांक १० जानेवारी २००९ रोजी पारित केलेला ठराव हा बँक कार्यालयीन वेळेत कार्यकारिणीची सभा घेऊन पारीत केलेला नाही. यासंदर्भात बँक कर्मचारी संघटना, लातूर यांनी घेतलेला आक्षेप हा अवाजवी व तकलादू आहे.

३. किसान बँक कर्मचारी संघटनेने मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६ अंतर्गत बँक कर्मचारी संघ, लातूर प्रातिनिधीक संघटनेच्या जागी ६ स्थानिक क्षेत्रासाठी स्वतंत्र अर्ज केलेला आहे. या सहाही स्थानिक क्षेत्रामध्ये किसान बँक कर्मचारी संघटनेकडे २५ टक्के पेक्षा जास्त सभासद (मेंबरशिप) आहे त्यामुळे बँक कर्मचारी संघटनेचा सदरचा आक्षेप गैरलागू व तथ्यहिन आहे.

४. किसान बँक कर्मचारी संघटनेने अंगिकृत केलेल्या घटना व नियमातील कलम २८ मध्ये संघटनेचे लेखा परीक्षण सरकारी लेखा परीक्षणाकडून करण्यात येईल अशी स्पष्ट तरतूद केलेली आहे व तसा फेरबदल संघटनेच्या घटना व नियमात करून घेतलेला आहे. त्यामुळे बँक कर्मचारी संघटनेने यासंदर्भात उपस्थित केलेला आक्षेप खोटा व निरर्थक आहे त्यामुळे तो विचारात घेतला जाऊ नये.

५. किसान बँक कर्मचारी संघटना ही अर्जदार संघटना लातूर जिल्ह्यातील सहकारी क्षेत्रातील बँकींग उद्योगात कार्यरत असलेल्या कर्मचाऱ्यांच्या हितासाठी झटणारी एकमेव संघटना असून या संघटनेकडे २५ टक्केपेक्षा जास्त सभासद आहेत. या द्वेषापोटी बँक कर्मचारी संघटनेने आमच्या संघटनेवर उपरोक्त आरोप केलेले आहेत जे पूर्णपणे चुकीचे व गैरलागू असल्यामुळे विचारात घेतले जाऊ नयेत व किसान बँक कर्मचारी संघटनेने प्रातिनिधीक संघटनेचा दर्जा प्राप्त करण्यासाठी जो दिनांक १ जून २०१० रोजी अर्ज केलेला आहे तो गुणवत्तेवर व नैसर्गिक न्यायतत्त्वाचा अवलंब करून निकाली काढावा, ही विनंती.

या कार्यालयाचा दिनांक ९ जुलै २०१० रोजीच्या नोटीशीला अनुसरून बँक कर्मचारी संघटना, लातूर यांनी दिनांक ११ ऑगस्ट २०१० रोजीच्या पत्राद्वारे खुलासा केला होता तसेच सदर पत्रातील मुद्दा क्र. ५ मध्ये आपण किसान बँक कर्मचारी संघटना, लातूर यांनी घटनामध्ये केंव्हा दुरुस्ती केली व ती या कार्यालयाकडून केव्हा प्रमाणित करण्यात आली याबाबतची कागदपत्रे देण्याची विनंती केली होती. किसान बँक कर्मचारी संघटना, लातूर यांनी दिनांक १ जून २०१० रोजीच्या अर्जासोबत जोडलेल्या घटना व नियमाची प्रत व इतर कागदपत्रांच्या प्रती या कार्यालयाच्या दिनांक ९ जुलै २०१० रोजीच्या कारणे दाखवा नोटीसीसोबत जोडण्यात आलेल्या होत्या. वास्तविक पाहता माहितीचा अधिकार अधिनियम, २००५ अंतर्गत दिनांक १९ जुलै २०१० रोजीच्या आपल्या अर्जास अनुसरून राज्य जन माहिती अधिकारी, औरंगाबाद यांनी त्यांचे पत्र दिनांक १६ ऑगस्ट २०१० रोजी किसान बँक कर्मचारी संघटना, लातूर या संघटनेच्या घटना व नियमात दिनांक २९ मे २०१० रोजी दुरुस्ती झाल्याचे तसेच संघटनेने दुरुस्तीसाठी सादर केलेली कागदपत्रे जसे अर्ज, ठरावाची प्रत, जुनी घटना व नवीन घटना यांच्या प्रती बँक कर्मचारी संघास देण्यात आलेल्या आहेत. तसेच सहायक निबंधक यांनी दिनांक १९ ऑक्टोबर २०१० रोजीच्या पत्राद्वारे अध्यक्ष, बँक कर्मचारी संघ, लातूर यांना कळविले होते व परत सदरच्या दिनांक १९ ऑक्टोबर २०१० रोजीच्या पत्रासोबत किसान बँक कर्मचारी संघटना, लातूर या संघटनेच्या सुधारित घटना व नियमाची प्रत बँक कर्मचारी संघ, लातूर यांना पाठविण्यात आली.

किसान बँक कर्मचारी संघटनेच्या दिनांक १ जून २०१० रोजीच्या अर्जास अनुसरून लातूर जिल्ह्यातील लातूर नगर परिषद हद्द या स्थानिक क्षेत्रात मुख्यालय किंवा शाखा असलेल्या सहकारी बँकेची नावे व पत्ते कळविण्याची जिल्हा उप निबंधक, सहकारी संस्था, लातूर यांनी दिनांक २१ सप्टेंबर २०१० व दिनांक ११ नोव्हेंबर २०१० रोजीच्या पत्राद्वारे विनंती करण्यात आली त्यानुसार जिल्हा उप निबंधक सहकारी संस्था, लातूर यांनी त्यांच्या दिनांक ७ डिसेंबर २०१० व २० डिसेंबर २०१० रोजी पत्राद्वारे यादी कळविली.

सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद यांच्या दिनांक ९ जुलै २०१० रोजीच्या कारणे दाखवा नोटीसला बँक कर्मचारी संघ, लातूर यांनी दिनांक ११ ऑगस्ट २०१० रोजीच्या पत्राद्वारे सादर केलेल्या खुलासा व त्यावर किसान बँक कर्मचारी संघटना, लातूर या अर्जदार संघटनेने सादर केलेले स्पष्टीकरण समाधानकारक व योग्य वाटल्यामुळे तसेच मुंबई औद्योगिक संबंध अधिनियम, १९४६ मधील तरतुदी पाहता पुढील कार्यवाही सुरू करण्यात आली. आदेशामध्ये बँक कर्मचारी संघ, लातूर यांच्या खुलाशातील मुद्याबाबत स्पष्टपणे नमूद करण्यात आले आहे.

दरम्यान किसान बँक कर्मचारी संघटना, लातूर या अर्जदार संघटनेने मा. उच्च न्यायालय, मुंबई, खंडपिठ औरंगाबाद यांचेसमोर दाखल केलेल्या याचिका क्र. ८१५७/२०१० मध्ये मा. उच्च न्यायालयाने सर्व पक्षांचे म्हणणे ऐकून किसान बँक कर्मचारी संघटनेचे दिनांक १ जून २०१० रोजीचे अर्ज मुंबई औद्योगिक संबंध अधिनियम, १९४६ मधील तरतुदीनुसार सर्व संबंधित पक्षांना बाजू मांडण्याची संधी देऊन ३ महिन्याचे आत निकाली काढण्याबाबत सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद यांना दिनांक २० डिसेंबर २०१० रोजी आदेशीत केले.

मा. उच्च न्यायालय, मुंबई, खंडपिठ औरंगाबाद यांनी याचिका क्रमांक ८१५७/२०१० मध्ये दिनांक २० डिसेंबर २०१० रोजी दिलेल्या आदेशास अनुसरून सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद यांनी दिनांक ३ जानेवारी २०११ रोजीचा डाक नोंद पोच देय पत्राद्वारे अध्यक्ष/सरचिटणीस, किसान बँक कर्मचारी संघटना, लातूर यांना त्यांचे दिनांक १ जून २०१० रोजीच्या अर्जास अनुसरून मुंबई औद्योगिक संबंध नियम, १९४७ च्या नियम २८(ए) नुसार कागदपत्रे/रजिस्टरसह दिनांक १५ जानेवारी २०११ रोजी उपस्थित राहण्याबाबत कळविले. सदर पत्राची प्रत अध्यक्ष, बँक कर्मचारी संघ, लातूर यांना देण्यात येऊन त्यांना देखील उपस्थित दस्तऐवज सादर करण्याबाबत कळविले तसेच दिनांक ३ जानेवारी २०११ रोजीच्या डाक नोंद देय पत्राद्वारे, जिल्हा उप निबंधक, सहकारी संस्था, लातूर यांनी कळविलेल्या यादीतील बँकांना कर्मचाऱ्यांची यादी ३ प्रतित सादर करण्याबाबत कळविण्यात आले.

दरम्यान बँक कर्मचारी संघ, लातूर यांनी दिनांक ७ जानेवारी २०११ रोजीच्या पत्राद्वारे दिनांक ११ ऑगस्ट २०१० रोजी दिलेल्या खुलाशात नमूद केलेले कागदपत्रे व माहिती मिळालेली नाही असे कळविले तसेच बँक कर्मचारी संघटनेने केलेल्या खुलाशावर व आक्षेप हरकतीवर सहायक निबंधक यांनी घेतलेला निर्णय बँक कर्मचारी संघटनेस कळविलेला नाही तसेच आक्षेप/हरकती यावर घेतलेला निर्णय न कळविताच किसान बँक कर्मचारी संघटनेचा अर्ज **महाराष्ट्र शासनाच्या राजपत्रामध्ये** प्रसिद्ध केलेले आहेत ते आयोग्य व चुकीचे आहेत तेव्हा खुलाशातील आक्षेपावर निर्णय कळवावा व तोपर्यंत किसान बँक कर्मचारी संघटना, लातूर यांचा अर्जावरील कार्यवाही थांबविण्यात यावी असे कळविले त्यावर सहायक निबंधक यांनी दिनांक १२ जानेवारी २०११ रोजीचा डाक नोंद पोच देय पत्राद्वारे बँक कर्मचारी संघास खालीलप्रमाणे कळविण्यात आले.

किसान बँक कर्मचारी संघटना, लातूर यांचा दिनांक १ जून २०१० रोजीच्या अर्जास अनुसरून या कार्यालयाने आपणास दिनांक ९ जुलै २०१० रोजीचे कारणे दाखवा नोटीस पाठवून ३० दिवसात खुलासा सादर करण्याचे सूचित केले होते व त्याचवेळी मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १४ (४) नुसार किसान बँक कर्मचारी संघटना यांचा अर्ज महाराष्ट्र शासनाच्या राजपत्रामध्ये प्रसिद्ध करण्यासाठी व्यवस्थापक, शासकीय मध्यवर्ती मुद्रणालय, मुंबई यांच्याकडे दिनांक १५ जुलै २०१० रोजीच्या पत्राद्वारे पाठविला होता. आपण दिनांक ११ ऑगस्ट २०१० रोजीच्या पत्राद्वारे किसान बँक कर्मचारी संघटना यांनी घटना व नियमामध्ये केव्हा दुरूस्ती केली व ती केव्हा प्रमाणित करण्यात आली या संबंधिची कागदपत्रे देण्याची विनंती केली होती. वास्तविक पाहता किसान बँक कर्मचारी संघटना, लातूर या संघटनेच्या सुधारित घटना व नियमाची प्रत दिनांक ९ जुलै २०१० रोजीच्या कारणे दाखवा नोटीस सोबत पाठविण्यात आलेली आहे. तसेच या कार्यालयाचा दिनांक १९ ऑक्टोबर २०१० रोजीच्या डाक नोंद पोच देय पत्रासोबत पाठविण्यात आलेली आहे, त्यामुळे संबंधित कागदपत्रे देण्यात आलेली नाहीत हे आपले म्हणणे पूर्णपणे चुकीचे आहे. हे कार्यालय मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या तरतुदीनुसार व याचिका क्रमांक ८१५७/२०१० मध्ये दिनांक २० डिसेंबर २०१० रोजी मा. उच्च न्यायालयाने दिलेल्या आदेशानुसार अर्जदाराच्या दिनांक १ जून २०१० रोजीच्या अर्जावर कार्यवाही करीत आहे. सदर याचिकेमध्ये आपण देखील प्रतिवादी असल्यामुळे आपणाला न्यायालयीन प्रकरणाची व त्यामधील आदेशाची माहिती आहे. तसेच मुंबई औद्योगिक संबंध नियम, १९४७ नुसार पुढील कार्यवाहीमध्ये आपले मांडावे असे देखील कळविण्यात आले होते.

बँक कर्मचारी संघ, लातूर यांनी त्यांच्या दिनांक १२ जानेवारी २०११ रोजीच्या पत्रास अनुसरून कळविले की किसान बँक कर्मचारी संघटना, लातूर यांनी केलेल्या कलम १६ खालील अर्ज कायद्याने चालणार नाहीत त्यामुळे सदर मुद्याचा निर्णय प्रथम करावा तसेच मा. उच्च न्यायालयातील याचिका क्र. ८१५७/२०१० मध्ये देखील दिनांक १ जून २०१० रोजीचे अर्ज कायद्याने चालू शकणार नाही असे लेखी कैफियत द्वारे मा. उच्च न्यायालयाच्या निदर्शनास आणून दिलेले आहे. मा. उच्च न्यायालयाच्या निदेशानुसार ही आपण सुरू केलेली प्रक्रिया चुकीची आहे तसेच किसान बँक कर्मचारी संघटना, लातूर यांनी कागदपत्रे दाखल केल्यास त्याची पडताळणी करून व उपस्थित केलेल्या मुद्यांचा निर्णय केल्यानंतर नियम २८ (अ) प्रमाणे कागदपत्रे दाखल करण्याबाबत निर्णय करीत आहोत, तरी वर उपस्थित केलेल्या कायदेशीर मुद्याचा निर्णय कळविण्यात यावा अशी विनंती केली.

बँक कर्मचारी संघटनेच्या वरील दिनांक १२ जानेवारी २०११ रोजीच्या पत्रास अनुसरून दिनांक २० जानेवारी २०११ चे पत्राद्वारे खालीलप्रमाणे कळविण्यात आले.

आपण आपल्या दिनांक १२ जानेवारी २०११ रोजीच्या पत्रान्वये मुद्दा उपस्थित केलेला आहे की, किसान बँक कर्मचारी संघटनेचा पहिला अर्ज निकाली काढल्यानंतर एक वर्षापर्यंत दुसरा अर्ज विचारात घेतला जाऊ नये असे स्पष्ट बंधन असतानाही तसेच अर्जदाराने उपस्थित केलेल्या मुद्याबाबत निर्णय न देता नियम २८-अ नुसार कागदपत्रे दाखल करण्याबाबतची नोटीस काढून संपूर्ण प्रक्रिया पूर्ण करण्याचे योजित आहात असे कथन केलेले आहे, जे पूर्णपणे चुकीचे, गैरलागू व कायद्यातील तरतुदीच्या विसंगत आहे. आपल्या उपरोक्त आक्षेपाच्या अनुषंगाने आपणास कळवू इच्छितो की, औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६(१) मध्ये विद्यमान नोंदणीकृत संघाच्या जागी दुसऱ्या संघाची नोंदणी करण्याची तरतूद आहे व याच कलमाच्या परंतुकामध्ये स्पष्ट केलेले आहे की, पूर्वीचा अर्ज निकालात काढल्याच्या तारखेपासून एक वर्षाचा अवधी लोटल्याशिवाय निबंधक संघाच्या नोंदणीसाठी कोणताही अर्ज स्वीकारणार नाही. उपरोक्त कलमाचे अवलोकन केले असता स्पष्ट होते की, आपण उपरोक्त कलमाचा चुकीचा व आपल्या सोईचा अर्थ काढत आहात जो परिपूर्ण व कायद्यास अभिप्रेत असणारा अर्थ नाही. किसान बँक कर्मचारी संघटनेने मान्यताप्राप्त संघटनेचा दर्जा प्राप्त व्हावा यासाठी औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६ अंतर्गत दिनांक ४ नोव्हेंबर २००९ रोजीचा केलेला अर्ज हा प्रत्येक स्थानिक क्षेत्रासाठी स्वतंत्र अर्ज केलेला नव्हता तसेच सदरच्या अर्जासोबत आवश्यक ते शुल्कही भरलेले नव्हते, तसेच कोणत्याही कागदपत्राची पूर्तता केलेली नव्हती, त्यामुळे अर्ज परिपूर्ण व सर्वसमावेशक नव्हता, त्यामुळे औद्योगिक संबंध अधिनियम, १९४६ च्या तरतुदीची पूर्तता होत नसल्याने सदरचा अर्ज दिनांक ५ मार्च २०१० रोजी त्रुटी काढून निकाली काढलेला आहे. सदरच्या अर्जावर कोणतीही कायदेशीर प्रक्रिया पूर्ण न करता प्राथमिक स्तरावर छाननीमध्ये सदरचा अर्ज निकाली काढलेला आहे. किसान बँक कर्मचारी संघटनेचा प्रस्तुतचा अर्ज कायद्यातील कोणतीही प्रक्रिया पूर्ण करून अंतिम स्वरूपात गुणवत्तेवर निकाली काढलेला नसल्यामुळे किसान बँक कर्मचारी संघटनेस एक वर्षा पर्यंत पुन्हा नव्याने अर्ज करता येत नाही असा जो मुद्दा आपण संदर्भीय पत्राद्वारे उपस्थित केलेला आहे तो विचारात घेण्याजोगा नाही.

मुंबई औद्योगिक संबंध अधिनियम, १९४६ नुसार कोणताही अर्ज कायद्यातील संपूर्ण प्रक्रिया पूर्ण केल्यानंतरच अंतिम स्वरूपात निकाली काढला असेल तर नव्याने पुन्हा एक वर्षापर्यंत अर्ज करता येणार नाही असे कलम १६(१) मधील परंतुकातून अभिप्रेत आहे. परंतु सदरची परिस्थिती येथे नसल्यामुळे ही अट प्रस्तुत प्रकरणात लागू होत नाही.

पुढे आपण याच पत्राद्वारे मुद्दा उपस्थित केलेला आहे की, मुंबई औद्योगिक संबंध नियम, १९४७ च्या नियम २८-अ खालील नोटीस काढण्यापूर्वी सर्व तालुका लोकल एरिया निहाय सहकारी बँक उद्योगामध्ये कार्यरत असलेल्या एकूण कर्मचाऱ्यांची संख्या संबंधित बँकांकडून मागविणे जरूरीचे आहे कारण सर्व प्रथम किसान बँक कर्मचारी संघटना यांची सदस्य संख्या कलम १३ नुसार आवश्यक असलेल्या एकूण कर्मचारी संख्येच्या किमान २५ टक्के असणे जरूरीचे आहे व ती नसल्यास त्या अर्जाबाबत पुढील प्रक्रिया करता येणारा नाही व या कायदेशीर मुद्यांचाही विचार नियम २८-अ नुसार आपण केलेला दिसून येत नाही असा जो मुद्दा आपण उपस्थित केलेला आहे तो ही पूर्णपणे चुकीचा व असमर्थनीय आहे. मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १३,१६,१७ व २३ ची प्रक्रिया पूर्ण करण्यासाठी नियम २८-अ अंतर्गत किसान बँक कर्मचारी संघटना व आपणास दिनांक ३ जानेवारी २०११ रोजीची नोटीस पाठविण्यात आलेली आहे. त्यामुळे पुन्हा नव्याने कलम २८-अ अंतर्गतची नोटीस काढण्याची आवश्यकता नाही.

पुढे हेही स्पष्ट करण्यात येते की, किसान बँक कर्मचारी संघटना, लातूर यांनी मा. उच्च न्यायालय खंडपीठ, औरंगाबाद यांचे समोर याचिका क्र. ८१५७/२०१० दाखल केलेली होती, ज्यामध्ये आपणही प्रतिवादी होतात. सदर याचिकेमध्ये मा. उच्च न्यायालयाने दिनांक २० डिसेंबर २०१० रोजी आदेश पारित केलेले आहेत व आदेशित केलेले आहे की, सर्व संबंधित पक्षांना बाजू मांडण्याची संधी देऊन किसान बँक कर्मचारी संघटनेने दिनांक १ जून २०१०रोजी दाखल केलेला अर्ज दिनांक २० डिसेंबर २०१० पासून तीन महिन्यांच्या आत निकाली काढण्यात यावी. मा. उच्च न्यायालयाचे दिनांक २० डिसेंबर २०१० रोजीचे आदेश आपणास पूर्णपणे ज्ञात असून न्यायालयाने निर्देशित केलेल्या चौकटीतच व मुंबई औद्योगिक संबंध अधिनियम, १९४६ मध्ये उधृक्त केलेल्या तरतुदीप्रमाणेच कार्यवाही चालू आहे. त्यामुळे तांत्रिक व वेळकाढु मुद्दे उपस्थित करून प्रकरणाची गुंतागुंत न वाढवता कायदेशीर प्रक्रिया गुणवत्तेवर व वेळेत पूर्ण करण्यासाठी आपले सहकार्य अपेक्षित आहे. ज्यामुळे सर्व संबंधित घटकांना नैसर्गिक न्याय देणे शक्य होईल.

तरी आपणास याद्वारे पुन्हा सुचित करण्यात येते की, मुंबई औद्योगिक संबंध नियम, १९४७ च्या नियम २८-अ खाली आपणास दिनांक ३ जानेवारी २०११ रोजी दुपारी १२-०० वाजता प्रत्यक्ष हजर राहून सादर करावेत. या संदर्भात पुन्हा नव्याने पत्रव्यवहार केला जाणार नाही याची कृपया नोंद घ्यावी.

दरम्यान किसान बँक कर्मचारी संघटनेने दिनांक १५ जानेवारी २०११ व दिनांक २१ जानेवारी २०११ रोजीच्या पत्राद्वारे सहायक निबंधक, औरंगाबाद यांनी दिनांक ३ जानेवारी २०११ रोजीच्या पत्राद्वारे मागितलेले रेकॉर्ड दाखल केले. तसेच जिल्हा उप निबंधक, सहकारी संस्था, लातूर यांनी कळविलेल्या यादीतील सहकारी बँकांनी देखील कर्मचाऱ्यांची यादी सादर केली.

बँक कर्मचारी संघास दिनांक ३ जानेवारी २०११ रोजीच्या पत्राद्वारे दिनांक १५ जानेवारी २०११ रोजी दस्तऐवज/अभिलेख उपस्थित राहून सादर करण्याचे सुचित करण्यात आले होते. परंतु बँक कर्मचारी संघातर्फे सदर दिवशी कोणीही उपस्थित राहीले नाही किंवा कोणतेही रेकॉर्ड दाखल केले नाही. त्यामुळे परत दिनांक २० जानेवारी २०११ रोजीचे पत्राद्वारे दिनांक २९ जानेवारी २०११ रोजी दस्तऐवज सादर करण्याचे डाक नोंद पोच देय पत्राद्वारे सूचित करण्यात आले. सदर दिनांक २९ जानेवारी २०११ रोजी बँक कर्मचारी संघाचे अध्यक्ष श्री. वसंत गणपतराव कुंभारे व सरचिटणीस श्री. पांचाळ हजर झाले परंतु सुचित केल्याप्रमाणे त्यांनी कोणतेही दस्तऐवज सादर केले नाहीत. तथापि, किसान बँक कर्मचारी संघटनेचे रेकॉर्ड, तपासणीसाठी देण्याची मागणी केली त्यानुसार रेकॉर्ड तपासणीची तारीख दिनांक ७ फेब्रुवारी २०११ रोजी दुपारी १-०० वाजता ठेवण्यात आली. याचदिवशी दिनांक २९ जानेवारी २०११ रोजीच्या पत्राद्वारे बँक कर्मचारी संघटनेचे रेकॉर्ड ऑडिटरला दिलेले असल्यामुळे आजची तारीख वाढविणे गरजेचे आहे. ऑडिट झाल्यानंतर आम्ही आमच्या संघटनेचे रेकॉर्ड आपणाकडे दाखल करीत आहोत. करीता आम्हास १५ दिवसांची पुढील तारीख वाढवून मिळावी अशी विनंती केली. त्यास अनुसरून सहायक निबंधक यांनी दिनांक ३१ जानेवारी २०११ रोजीच्या पत्राद्वारे मा. उच्च न्यायालयाने याचिका क्र. ८१५७/२०१० मध्ये दिलेल्या आदेशानुसार प्रकरणात तीन महिन्यांच्या आत कार्यवाही पूर्ण करावयाची आहे, त्यामुळे आपणास प्रत्येक वेळी नव्याने वेळ देणे शक्य नाही तरीपण नैसर्गिक न्यायतत्त्वाप्रमाणे आपणास आपले दस्तऐवज सादर करण्यासाठी सात दिवसांची मुदत देण्यात येत असुन आपण दिनांक ७ फेब्रुवारी २०११ रोजी दुपारी १२-३० वा. प्रत्यक्ष हजर राहून रेकॉर्ड सादर करावेत. आपणास रेकॉर्ड दाखल करण्यासाठी तिसऱ्यांदा संधी देण्यात येत आहे. त्यामुळे यापुढे यासंदर्भात आपण केलेल्या कोणत्याही मागणीचा कालमर्यादेचे बंधन पाहता विचार करणे शक्य होणार नाही याची कृपया नोंद घ्यावी असे कळविले होते.

दिनांक ७ फेब्रुवारी २०११ रोजी बँक कर्मचारी संघाचे अध्यक्ष श्री. वसंत गणपतराव कुंभारे व सहसचिव श्री. गोधालकर कार्यालयात हजर झाले परंतु त्यांनी कोणतेही रेकॉर्ड सादर केले नाही. परंतु किसान बँक कर्मचारी संघटना या अर्जदार संघटनेने या कार्यालयाकडे दाखल केलेल्या रेकॉर्डची तपासणी केली. तसेच त्यांचे संघटनेचे रेकॉर्ड सादर करण्यास व हरकती/आक्षेप नोंदविण्यास १० दिवसाची मुदत देण्याची विनंती केली न्यायालयाची कालमर्यादा पाहता जास्त दिवसाची मुदत देणे शक्य नसल्यामुळे बँक कर्मचारी संघास त्यांचे रेकॉर्ड दाखल करण्यासाठी व आक्षेप नोंदविण्यासाठी शेवटची तारीख १४ फेब्रुवारी २०११ रोजी सकाळी ११-०० वाजता ठेवण्यात आली.

किसान बँक कर्मचारी संघटना यांनी दिनांक ४ फेब्रुवारी २०११ रोजीच्या पत्राद्वारे बँक कर्मचारी संघटनेने रेकॉर्ड दाखल केले असेल तर ते तपासणीसाठी उपलब्ध करून द्यावे अशी विनंती केली त्यानुसार त्यांना दिनांक १४ फेब्रुवारी २०११ रोजी सकाळी ११-०० वाजता बँक कर्मचारी संघाचे रेकॉर्ड तपासणीसाठी उपस्थित राहण्याबाबत कळविण्यात आले.

दिनांक १४ फेब्रुवारी २०११ रोजी किसान बँक कर्मचारी संघटनेचे अध्यक्ष श्री. तानाजी जाधव व सरचिटणीस श्री. व्यंकट शिंदे सकाळी ११-०० वा कार्यालयात बँक कर्मचारी संघाचे रेकॉर्ड तपासणीसाठी हजर झाले. परंतु बँक कर्मचारी संघातर्फे सायंकाळी ५-४५ वाजेपर्यंत कोणीही उपस्थित झाले नाही किंवा कोणतेही रेकॉर्ड सादर करण्यात आले नाही तसेच कुठल्याही प्रकारचे आक्षेप नोंदविण्यात आले नाहीत. बँक कर्मचारी संघास रेकॉर्ड सादर करण्यासाठी दिनांक १५ जानेवारी २०११, २९ जानेवारी २०११, ७ फेब्रुवारी २०११ व १४ फेब्रुवारी २०११ (शेवटची संधी) संधी देण्यात आली होती. परंतु बँक कर्मचारी संघाचे वारंवार संधी देऊनही रेकॉर्ड सादर न करता वेळ काढूपणाचे धोरण अवलंबिले. बँक कर्मचारी संघाने रेकॉर्ड न सादर केल्यामुळे किसान बँक कर्मचारी संघटनेस तपासणीसाठी रेकॉर्ड उलब्ध करून देता आले नाही.

बँक कर्मचारी संघास त्यांचे रेकॉर्ड दाखल करण्यासाठी व आक्षेप नोंदविण्यासाठी पूर्ण संधी देण्यात आली, परंतु बँक कर्मचारी संघाने कोणतेही रेकॉर्ड सादर केले नाही वा आक्षेप नोंदविले नाहीत. मा. उच्च न्यायालयाने दिलेली कालमर्यादा विचारात घेता या कार्यालयाचा दिनांक १५ फेब्रुवारी २०११ रोजीच्या पत्रान्वये दिनांक ३ मार्च २०११ ते दिनांक ५ मार्च २०११ या कालावधीत प्रत्यक्ष सदस्यता पडताळणी कार्यक्रम सर्व संबंधित पक्षांना डाक देय नोंद पोच पत्राद्वारे कळविण्यात आला तसेच उपरोक्त कालावधित संबंधित, संघटनांना त्यांच्या सदस्य कर्मचाऱ्यांना सदस्यता पडताळणीच्या वेळी उपस्थित राहण्याचे कळविण्याबाबत व संघटनेने प्राधिकृत केलेले प्रतिनिधी सदस्य पडताळणीच्या ठिकाणी उपस्थित ठेवण्याबाबत देखील सदर पत्राद्वारे कळविण्यात आले.

किसान बँक कर्मचारी संघटनेच्या दिनांक १ जून २०१० रोजीच्या अर्जास अनुसरून प्रत्यक्षसदस्यता पडताळणीसाठी कामगार उप आयुक्त, औरंगाबाद विभाग औरंगाबाद यांनी त्यांचे दिनांक २४ फेब्रुवारी २०११ रोजीचे पत्राद्वारे सर्वश्री एम. आर. कुलकर्णी, अधीक्षक (२) एस. जी. मुंढे, वरिष्ठ कामगार अन्वेषक (३) एस. एम. राठोड, लिपिक-टंकलेखक व (४) एस. डी. राजपूत, लिपिक-टंकलेखक यांना सदस्यात पडताळणी साठी नियुक्त केले.

दरम्यान दिनांक २४ फेब्रुवारी २०११ रोजी बँक कर्मचारी संघाने इन्चार्ज मा. सदस्य, औद्योगिक न्यायालय, सोलापूर यांचे समोर अपील बीआरआर/१/२०११ दाखल करून सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद यांच्या दिनांक २० जानेवारी २०११ रोजीच्या पत्रास आव्हान देऊन ते रद्दबातल ठरविण्याबाबत व किसान बँक कर्मचारी संघटना यांनी दिनांक १ जून २०१० रोजी कलम १६ व २३ खाली केलेला अर्ज रद्द बातल ठरविण्यात यावा व इतर योग्य ते न्यायाचे हुकूम व्हावेत अशी प्रार्थना केली. परंतु मा. औद्योगिक न्यायालय, सोलापूर यांनी सदरचे प्रकरण दिनांक २८ फेब्रुवारी २०११ रोजी मा. औद्योगिक न्यायालय, लातूर यांचे समोर ठेवण्यात यावे असे आदेशित केले. त्यानुसार मा. औद्योगिक न्यायालय, लातूर यांनी दिनांक २८ फेब्रुवारी २०११ व दिनांक १ मार्च २०११ रोजी दोन्ही संघटनांचे म्हणणे ऐकून व कागदपत्रे पाहून अर्जदार बँक कर्मचारी संघाने अपिलात केलेली प्रार्थना फेटाळली वास्तविक पाहता बँक कर्मचारी संघाने मा. उच्च न्यायालय, मुंबई खंडपीठ,औरंगाबाद यांचे समोरील याचिका क्रमांक ८१५७/२०१० मध्ये तसेच औद्योगिक न्यायालय, लातूर यांचेसमोर दाखल केलेल्या अपिलामध्ये बीआरआर/१/२०१० मध्ये सारखाच मुद्दा उपस्थित केला होता.

सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद यांनी त्यांचे दिनांक १५ फेब्रुवारी २०११ रोजीच्या पत्रानुसार व कामगार उप आयुक्त, औरंगाबाद विभाग, औरंगाबाद यांच्या दिनांक २४ फेब्रुवारी २०११ रोजी पत्राद्वारे उपलब्ध करून देण्यात आलेल्या कर्मचाऱ्यांसह खालील बँकेत प्रत्यक्ष सदस्यता पडताळणी केली. प्रत्यक्ष पडताळणीत आढळून आलेली संघटनांची सदस्य संख्या खालीलप्रमाणे आहे :—

अ. क्र.	बँकेचे नाव	बँकेने कळविलेली कर्मचारी संख्या	किसान बँक कर्मचारी संघटना, लातूर या संघटनेच्या सभासदांची यादी प्रमाणे सभासद संख्या	प्रत्यक्ष पडतळणीमध्ये आढळून आलेली किसान बँक कर्मचारी संघटना लातूर यांची सभासद संख्या	बँक कर्मचारी संघ लातूर यांच्या यादीतील सभासद संख्या	प्रत्यक्ष पडताळणीमध्ये आढळून आलेली बँक कर्मचारी संघ, लातूर या संघटनेची सभासद संख्या
(१)	(२)	(३)	(४)	(५)	(६)	(७)
१.	लातूर जिल्हा मध्यवर्ती सहकारी बँक लि., लातूर.	१४६	१२२	११३	—	—
२.	साईबाबा जनता सहकारी बँक लि., लातूर.	१४	–	–	—	—
३.	सिद्धेश्वर सहकारी बँक लि., लातूर.	४८	–	–	—	—
४.	इंदिरा महिला नागरी सहकारी बँक लि., लातूर.	११	–	–	—	०४
५.	लक्ष्मी अर्बन को-ऑप बँक लि.,	१८	–	–	—	०६
६.	महाराष्ट्र नागरी सहकारी बँक लि., लातूर.	२६	–	–	—	०८
७.	केदारनाथ को-ऑप. बँक लि., लातूर.	१८	–	–	—	१२
८.	महेश अर्बन को-ऑप बँक लि., अहमदपूर, जि. लातूर.	१०	१०	०९	—	—
९.	विठ्ठल नागरी सहकारी बँक लि., लातूर.	१४	–	–	—	—
१०.	उदगीर अर्बन को-ऑप बँक लि., उदगीर, जि. लातूर.	०६	०६	०४	—	—
११.	विकास नागरी सहकारी बँक लि., लातूर.	१८	१२	–	—	—
१२.	लातूर अर्बन को-ऑप बँक लि., लातूर.	५७	–	–	—	—
१३.	राजीव गांधी नागरी सहकारी बँक लि., लातूर.	यादी उपलब्ध करून दिली गेली नाही.	–	–	—	—
	एकूण	३८६	१५०	१२६	—	३०
	टक्केवारी		–	३२.६४ टक्के		७.७७ टक्के

प्रत्यक्ष सभासद पडताळणीच्या वेळी किसान बँक कर्मचारी संघटनेचे १२६ व्यतिरिक्त इतर २५ कर्मचारी सभासद असल्याचे निर्देशनास आले. ही संख्या ग्राह्य धरल्यास एकूण कर्मचारी संख्येशी (३८६) किसान बँक कर्मचारी संघटनेच्या सभासदांची टक्केवारी ३९.११ एवढी येते. जी की प्रातिनिधीक संघासाठी आवश्यक असलेल्या किमान २५ टक्के सभासद संख्येपेक्षा जास्त आहे.

किसान बँक कर्मचारी संघटनेने सहायक निबंधक यांचेकडे मेंबरशिपबाबत बँक कर्मचारी संघास रेकॉर्ड सादर करण्यासाठी चार वेळा संधी देऊन देखील मेंबरशिपबाबतचे कोणतेही रेकॉर्ड सादर केले नसल्यामुळे प्रत्यक्ष पडताळणीच्या वेळी बँक कर्मचारी संघाचे सदस्य म्हणून आढळलेले कर्मचारी हे प्रत्यक्षात सभासद आहेत किंवा कसे याबाबत संभ्रम निर्माण झाल्याने अशा सभासद कर्मचाऱ्यांची रेकॉर्डअभावी गणना करण्यात येऊ नये असे दिनांक ५ मार्च २०१० रोजी पडताळणीच्या वेळी निवेदन देऊन कळविलेले आहे. बँक कर्मचारी संघटनेने रेकॉर्ड न सादर करताही आढळून आलेले सभासद गृहीत धरले तरी त्यांची टक्केवारी एकूण कर्मचारी संख्येचा ७.७७ टक्के एवढी होते. मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १३ नुसार कोणत्याही स्थानिक क्षेत्रातील कोणत्याही उद्योगात कामावर लावलेल्या कामगारांच्या एकूण संख्येचा २५ टक्के हुन कमी नाहीत इतके ज्या संघाचे सदस्य असतील अशा कोणत्याही संघास अशा स्थानिक क्षेत्रातील अशा उद्योगाचा प्रातिनिधीक संघ म्हणून नोंद होईल. परंतु बँककर्मचारी संघाची आढळून आलेली ७.७७ टक्के ही टक्केवारी २५ टक्के पेक्षा कमी असल्यामुळे बँक कर्मचारी संघ, लातूर जिल्ह्यातील लातूर नगरपरिषद हद्द या स्थानिक क्षेत्रातील बँकींग उद्योगाकरिता प्रातिनिधीक संघ होत नाही.

प्रत्यक्ष सदस्यता पडताळणी दिनांक ३ मार्च २०११ रोजी लातूर जिल्हा मध्यवर्ती सहकारी बँक लि., लातूर या बँकेच्या मुख्यालयापासून सुरू करण्यात आली. प्रत्यक्ष सदस्यता पडताळणीच्या वेळी सुचित केल्यानुसार किसान बँक कर्मचारी संघटना, लातूर यांनी त्यांच्या अधिकृत प्रतिनिधीची यादी सादर केली. बँक कर्मचारी संघाचे अध्यक्ष, श्री. वसंत कुंभारे, सरचिटणीस श्री. पांचाळ व सहसचिव श्री. गोडाळकर हे सदर बँकेच्या मुख्यालयात उपस्थित झाले. त्यांना प्राधिकृत प्रतिनिधीची यादी देण्याबाबतची विनंती करण्यात आली. परंतु त्यांनी यादी दिली नाही. परंतु लेखी पत्राद्वारे त्यांनी स्पष्ट वेळापत्रक तीन-चार दिवस अगोदर न कळविल्याचे नमुद केले. परंतु त्याच वेळी त्यांना पडताळणी पथकासोबतच आपण रहावे अशी सहायक निबंधक यांनी सांगीतले तथापि बँक कर्मचारी संघाचे प्रतिनिधी पथकासोबत न थांबता निघून गेले. तसेच नंतर दुपारी २.०० वाजता बँक कर्मचारी संघातर्फे एक पत्र देण्यात आले तसेच सायंकाळी ६.०० केदारनाथ बँकेत सदस्य पडताळणी सुरू असतांना तिसरे पत्र दिले. वास्तविक पाहता दुपारी २-०० वाजता दिलेल्या पत्राच्या संदर्भात त्यांना सकाळीच, कामाचे स्वरुप व रहदारी पाहता कोणत्या ठिकाणी पथक किती वाजता पोहचले तसेच सदस्य पडताळणीसाठी एका बँकेत किती वेळ लागेल हे सांगणे शक्य नसल्याने पथका सोबतच राहण्याची विनंती केली होती. तसेच सदस्यता पडताळणी नमुन्यामध्ये किसान बँक कर्मचारी संघटनेचे सभासद आहात काय ? होय किंवा नाही, नसल्यास कोणत्या संघटनेचे सभासद आहात ? असे स्पष्टपणे नमूद केलेले असल्यामुळे कोणताही संभ्रम निर्माण होण्याचा प्रश्न उद्‌भवत नाही. सायंकाळी ६-०० वा केदारनाथ बँकेत पडताळणीच्या वेळी बँक कर्मचारी संघटेनेचे अध्यक्ष, सरचिटणीस व सहसचिव उपस्थित होते. त्याच वेळी बँक कर्मचारी संघातर्फे तिसरे पत्र देण्यात आले. वास्तविक पाहता पडताळणीच्या वेळी हजर असलेले प्रतिनिधी हे किसान बँक कर्मचारी संघाने प्राधिकृत केलेले होते. तसेच आपणास त्याच दिवशी सकाळी ११-३० वाजता पथकासोबत राहण्याचे सांगण्यात आले होते. त्यामुळे वैयक्तीक भ्रमणध्वनीवर संपर्क करण्याचा संबंध येत नाही.

बँक कर्मचारी संघ, लातूर यांनी दिनांक २६ फेब्रुवारी २०११ रोजीच्या पत्राद्वारे रु. ४५० च्या शुल्क सह आक्षेप कळविले जे या कार्यालयास दिनांक ५ मार्च २०११ रोजी प्राप्त झाले जेव्हा की, सदस्यता पडताळणी प्रत्यक्ष लातूर जिल्ह्यात चालू होती. सदरचे पत्र सहायक निबंधक यांच्या निदर्शनास दिनांक ७ मार्च २०११ रोजी आले. पत्रातील आक्षेप खालील प्रमाणे निकाली काढण्यात येत आहेत. वास्तविक पाहता बँक कर्मचारी संघास आक्षेप दाखल करण्यासाठी दिनांक ७ फेब्रुवारी २०१० व दिनांक १४ फेब्रुवारी २०११ रोजी (शेवटची संधी) देण्यात आली होती :—

(१) आक्षेप क्र. १ "कलम १६ मधील पुर्वीचा अर्ज निकाली काढल्यानंतर एक वर्षापर्यंत दुसरा अर्ज करता येत नाही" याबाबत आपणास दिनांक २० जानेवारी २०११ रोजीच्या पत्राद्वारे स्पष्टपणे कळविण्यात आलेले आहे. तसेच हाच मुद्दा बँक कर्मचारी संघाने मा. उच्च न्यायालय, मुंबई, खंडपिठ औरंगाबाद यांचे समोरील याचिका क्र. ८१५७/२०१० मध्ये व मा. औद्योगिक न्यायालय, लातूर यांचे समोरील अपील क्र. बीआयआर/१/२०११ मध्ये उपस्थित केलेला होता. जो मा. औद्योगिक न्यायालयाने फेटाळला असल्यामुळे त्यावर भाष्य करण्याची आवश्यकता नाही.

(२) आक्षेप क्र. २ बाबत स्पष्ट करण्यात येते की, जिल्हा उप निबंधक, सहकारी संस्था, लातूर यांनी लातूर जिल्ह्यातील स्थानिक क्षेत्रनिहाय सहकारी बँकांची कळविलेल्या यादीवरून संबंधित बँकांकडून कर्मचारी संख्या मागविण्यात आलेली आहे.

(३) आक्षेप क्र. ३ बाबत स्पष्ट करण्यात येते की, लातूर नगरपरिषद हद्दीमध्ये अर्जदार संघटनेची सदस्य संख्या कमी नाही.

(४) आक्षेप क्र. ४ बाबत स्पष्ट करण्यात येते की, बँक कर्मचारी संघास त्यांचे रेकॉर्ड सादर करण्यासाठी दिनांक १५ जानेवारी २०११, २९ जानेवारी २०११, ७ फेब्रुवारी २०११ व दिनांक १४ फेब्रुवारी २०११ रोजी संधी देण्यात आलेली होती.

(५) आक्षेप क्र. ५ बाबत स्पष्ट करण्यात येते की, बँक कर्मचारी संघाने चार वेळेस संधी देऊन देखील कोणतेही रेकॉर्ड दाखल केलेले नाही. किसान बँक कर्मचारी संघटनेने मेंबरशिप बाबत ऑडीटेड स्टेटमेंट दाखल केलेले आहे.

(६) आक्षेप क्र. ६ बाबत स्पष्ट करण्यात येते की, किसान बँक कर्मचारी संघटनेने तशी तरतूद घटना व नियमात केलेली आहे व याबाबतची कागदपत्रे वेळोवेळी बँक कर्मचारी संघास दिलेले आहेत.

(७) आक्षेप क्र. ७ बाबत स्पष्ट करण्यात येते की, किसान बँक कर्मचारी संघटना व बँक कर्मचारी संघाने परस्पराविरूद्ध श्रमिक संघ अधिनियम, १९२६ खाली तक्रारी दाखल केलेल्या आहेत. श्रमिक संघ अधिनियम, १९२६ व मुंबई औद्योगिक संबंध अधिनियम, १९४६ अंतर्गत वेगवेगळे प्राधिकारी कार्यरत आहेत. तसेच किसान बँक कर्मचारी संघटनेने मा. उच्च न्यायालयात दाखल केलेल्या याचिका क्र. ८१५७/२०१० मध्ये मा. न्यायालयाने दिलेल्या आदेशाप्रमाणे किसान बँक कर्मचारी संघटनेच्या १ जून २०१० रोजीच्या कलम १६ खालील अर्जावर कार्यवाही सुरू आहे. त्यामुळे सदरचा आक्षेप मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कार्यकक्षेत येणारा नाही.

(८) आक्षेप क्र. ८ बाबत स्पष्ट करण्यात येते की, जिल्हा उप निबंधक, सहकारी संस्था, लातूर यांचेकडून स्थानिक क्षेत्रनिहाय मुख्यालय वा शाखा असलेल्या सहकारी बँकांची यादी मागविण्यात आलेली आहे. पुढे स्पष्ट करण्यात येते की, बँक कर्मचारी संघाचे अध्यक्ष व सहसचिव यांनी दिनांक ७ फेब्रुवारी २०११ रोजी कार्यालयात उपस्थित राहून किसान बँक कर्मचारी संघटनेच्या रेकॉर्ड ची तसेच या प्रकरणाच्या नस्तीची तपासणी केली त्यावेळी आक्षेप क्र. ८ मध्ये नमुद केलेल्या बँकांच्या नावाचा मुद्दामहून व जाणूनबूजून उल्लेख केला नाही किंवा त्यावेळी तसा आक्षेपही घेतला नाही. प्रत्यक्ष सदस्यता पडताळणी कार्यक्रम संपल्यानंतर पोस्टाद्वारे इतर आक्षेपासह सदरचा आक्षेप नोंदविलेला आहे जेव्हा की बँक कर्मचारी संघास मा. उच्च न्यायालयाने याचिका क्र. ८१५७/२०१० मध्ये दिलेल्या कालमर्यादेची जाणीव होती त्यामुळे या आक्षेपामागील बँक कर्मचारी संघाचा हेतू निश्चितच प्रामाणिक व नैसर्गिक नाही.

बँक कर्मचारी संघाने पोस्टाद्वारे औरंगाबाद कार्यालयास पाठविलेल्या दिनांक ५ मार्च २०११ रोजीच्या पत्रासोबत रु. १०० च्या बॉन्ड पेपरवर श्री. वसंत गणपतराव कुंभारे यांचे प्रतिज्ञापत्र जोडलेले आहे. सदरचे पत्र प्रत्यक्ष सदस्यता पडताळणीनंतर कार्यालयास दिनांक ९ मार्च २०११ रोजी प्राप्त झालेले आहे. पत्रातील मुद्यांचा उहापोह आदेशामध्ये आलेला असल्यामुळे नव्याने स्पष्टीकरण देण्याची आवश्यकता वाटत नाही.

किसान बँक कर्मचारी संघटनेने सादर केलेले सभासदासंदर्भातील दस्तऐवज तसेच प्रत्यक्ष पडताळणीच्या वेळी आढळून किसान बँक कर्मचारी संघटनेची सभासद संख्या पाहता मी खालीलप्रमाणे आदेश करत आहे.

आदेश

१. मी याद्वारे **किसान बँक कर्मचारी संघटना, लातूर** या संघटनेस मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १६ व कलम १४ अन्वये लातूर जिल्ह्यात लातूर नगर परिषद हद्द या स्थानिक क्षेत्रासाठी बँकींग उद्योगाकरिता **बँक कर्मचारी संघ, लातूर** या नोंदणीकृत संघाच्या जागी प्रातिनिधीक संघ म्हणून नोंद करीत आहे.

२. मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम २३ (१) मध्ये विनिर्दिष्ट केलेल्या शर्ती **किसान बँक कर्मचारी संघटना, लातूर** पुऱ्या करीत असल्यामुळे व लातूर जिल्ह्यात लातूर नगरपरिषद हद्द या स्थानिक क्षेत्रासाठी बँकींग उद्योगाकरिता किसान बँक कर्मचारी संघटना, लातूर यासंघाची सदस्य संख्या **बँक कर्मचारी संघ, लातूर** या मान्यताप्राप्त संघाच्या सदस्यापेक्षा अधिक असल्याने **बँक कर्मचारी संघ, लातूर** या मान्यताप्राप्त संघाच्या जागी **किसान बँक कर्मचारी संघटना, लातूर** या संघाचे नाव मान्यताप्राप्त संघाच्या यादीत दाखल करीत आहे.

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दिनांक १४ मार्च २०११ मुंबई औद्योगिक संबंध अधिनियम, १९४६, औरंगाबाद.

K. V. DAHIPHALKAR,

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